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ANALYSIS OF CHARACTERISTICS IN THE DEFENSE SUPPLEMENTAL APPROPRIATIONS

by

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December 2002

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**ANALYSIS OF CHARACTERISTICS IN THE DEFENSE SUPPLEMENTAL
APPROPRIATIONS**

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ABSTRACT

The supplemental appropriation may be used as a budgetary tool for funding requirements. This study examined how the supplemental affected the Department of Defense (DoD) from fiscal year 1996 to fiscal year 2000. Furthermore, it examined the nature of the supplemental by studying its characteristics. Defense budgetary spending caps mandate that supplemental spending remain under certain limits. However, the use of the “emergency” designation has been a useful tool in expanding the amount of funds that the DoD may utilize. During the time of this study, the supplemental grew both in amounts and in the usage of the contingent emergency designation. In some cases, the President initiated supplemental spending, but in the latter years, it appeared that Congress took the lead. Furthermore, the need for supplementals went beyond one-time expenditures. Supplemental funding became a need to ensure readiness while the number of requirements grew and the emergency designation helped to make that possible.

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LIST OF ACRONYMS

BCA	Budget Control Act (aka. Congressional Budget and Impoundment Control Act of 1974)
BEA	Budget Enforcement Act
CBO	Congressional Budget Office
CRB	Concurrent Resolution of the Budget
CRS	Congressional Research Service
CY	Calendar Year
DCA	Deficit Control Act (aka. Balanced Budget and Emergency Deficit Control Act of 1985)
DERF	Emergency Response Fund, Defense
DoD	Department of Defense
DoN	Department of the Navy
FY	Fiscal Year
IFOR	NATO Implementation Force
MILCON	Military Construction
MILPERS	Military Personnel
NATO	North Atlantic Treaty Organization
O&M	Operations and Maintenance
OCOTF	Overseas Contingency Operations Transfer Fund
OHDACA	Overseas Humanitarian, Disaster, and Civic Aid
OMB	Office of Management and Budget
PAYGO	Pay-As-You-Go
PB	President's Budget Proposal
PL	Public Law
PPBS	Planning, Programming, and Budgeting System
RDTE	Research, Development, Testing, and Evaluation
SFOR	NATO Stabilization Force
UN	United Nations

SIGNIFICANT LEGISLATION

Congressional Budget and Impoundment Control Act of 1974, Public Law 93-344.
Balanced Budget and Emergency Deficit Control Act of 1985, Public Law 99-177
Balanced Budget and Emergency Deficit Control Act of 1987, Public Law 100-119
Budget Enforcement Act of 1990, Public Law 101-508, Title XIII.
Budget Enforcement Act of 1997, Public Law 105-33, Title X.

SIGNIFICANT U.S. CODE

Title 2, Chapter 20: Emergency Powers to Eliminate Budget Deficits

I. INTRODUCTION

A. PURPOSE

The primary objective of this study is to explore the complex nature of supplemental appropriations. A supplemental appropriation is an additional funding after a regular appropriation. Many aspects make up the supplemental. The content and dollar value will vary from year to year and the properties of a supplemental are different from a regular appropriation both in purpose and process.

The purpose of this research is to determine if there is a two-step strategic approach to appropriations. The two-step process goes back to before and after the Congressional Budget and Impoundment Control Act of 1974 (BCA). It is the business of the United States President to request and the Congress to appropriate monies from the United States Treasury to an Agency to meet the needs of the country. Since the constituents' voices and therefore, their requests are many, there is the standard problem of having insufficient resources to meet all the needs. When the funds run out in the regular appropriation, the second step is to ask for more money. A supplemental appropriation meets that need. Furthermore, it may become necessary to request more money for unanticipated situations. Increasingly, the supplemental has been used with the emergency designation.

There is little documented study of supplemental appropriations either for the DoD or for other agencies of the federal government. However, the use of defense supplementals has become a way of life to conduct emergent, critical operations in the name of national defense. With the extensive use of supplementals to provide funding for operations, we must better understand how the supplemental purpose and process affects the Department of Defense (DoD) in their quest to meet the mission needs as set out in the National Security Strategy (NSS) and National Military Strategy Document (NMSD).

More specifically, this research seeks to determine whether or not the DoD really use the two-step process for funding their mandates and missions. Since the NSS and NMSD are financially unconstrained documents and there can be many mission needs,

resources must be allocated as effectively as possible to meet the threat. While that is addressed in the Planning, Programming and Budgeting System (PPBS), the supplemental process is not discussed. However, almost every year since 1974, when the Congressional Budget and Impoundment Control Act of 1974 was enacted, there has been a Defense supplemental. Apparently, supplementals play an important part in funding defense activities and therefore, a better understanding of the issues in a supplemental become necessary.

B. RESEARCH QUESTIONS

The main question of this research is to determine if the appropriation process is a one or two-step process. The two-step process originates in a problem where a continuing budget need is under-funded in a regular appropriation bill and then additional funds must be requested in a supplemental to make up the shortfall. This may be the result of deliberate strategic planning or that previous under-funding triggered an emergency need. In the deliberate strategic planning scenario, the regular appropriation is under-funded below the amount requested. Then, the additional funds are requested in a supplemental to recoup them. In the second scenario, funds that are continuously denied weaken the DoD's ability to maintain readiness and infrastructure. Such a condition may require that emergency funding be provided to fix past deficient spending to maintain readiness and infrastructure. Of course, emergency funding could be a result of an actual emergency condition such as a natural disaster. To better answer this question, the impact of the supplemental appropriation must be evaluated. A supplemental should provide additional funding for emergency and contingent operations, but this work will look at various pieces of the supplemental to understand their true nature.

To begin, we must understand some of the legal aspects of budgeting in Congress. Congress should provide space for supplementals in the Concurrent Resolution of the Budget (CRB), which is required by the Congressional Budget and Impoundment Control Act of 1974. There is some doubt as to whether or not that has been accomplished. Furthermore, this study will be impacted by the lack of a CRB for Fiscal Year (FY) 1999.

The originator of the supplemental affects its content. The Agency (via the President) or Congress may initiate the supplemental. It is necessary to know who was the originator of such funding and then what was the outcome.

The designation of the supplemental is important. An understanding of the use of the “emergency” designation in the legislation has a direct impact on spending limits. This may be a result of political or dire-needs and its concept must be explored. Since supplementals may turn out to be non-emergency, this study will also examine what the DoD may have paid for that was not congruent with the DoD mission.

Of course, the budget is a planning device. However, in this complex world, the international dynamics are in a continual state of flux. Emergent military missions are part of the DoD’s business. While maintaining readiness is important, the DoD is used as an extension of political need and to maintain stability to meet United States national interests and security. The level to which additional funding is necessary is determined partly by incremental costing. The incremental costs not funded must then be absorbed in the regular budget. Therefore, incremental costing is explored also.

C. SCOPE AND LIMITATIONS

The scope of this thesis is the historical examination of the supplemental appropriations from fiscal year 1996 to 2000. The study stops before 2001 because of changes in the global environment. The global fight on terrorism is a major strategic change for the military forces and the massive dollar amounts involved in supplemental appropriations since the attacks of September 11, 2001, may have skewed the results of this study.

This study describes the content of a supplemental appropriation. It will look at the legal constructs as well as the unintended contents. This includes an analysis of the meaning of incremental costing, an analysis of emergency and non-emergency expenditures and an analysis of policy and other factors that may affect the content of the supplemental appropriation. A year-to-year comparison will be conducted to better understand these aspects.

While the scope of this study will not analyze the Planning, Programming and Budgeting System (PPBS), it should be understood that the PPBS and supplemental processes might not be completely independent.

D. ORGANIZATION OF STUDY

This study addresses supplemental appropriations. It will be broken into four areas of emphasis after this chapter, including (1) an overview of the supplemental, (2) data from the studied fiscal years, (3) an analysis of data, and (4) the conclusion.

1. Overview of the Supplemental

This section will discuss some of the research and studies completed prior to this thesis. It will explain some of the terms used in the legislation as well as the possible intentions of a supplemental. Finally, it will provide a historical backbone of trends in the supplemental for the 1990s.

2. Supplementals by Year

This section will provide data for analysis of supplemental appropriations. It will be divided by year to include FY96 to FY00.

3. Analysis of the Supplemental

This section will analyze trends in the data. The analysis will specifically look at properties of a supplemental as discussed in the introduction and overview of the supplemental in chapter two.

4. Summary and Conclusion

A final section will be dedicated to the summary and conclusions of the supplemental appropriation.

II. OVERVIEW OF THE SUPPLEMENTAL APPROPRIATION

A. INTRODUCTION TO THE SUPPLEMENTAL

Governmental budgeting is a process of planning future expenditures to provide for federal programs. Events are planned for and then executed in a two-phase process. [Ref. 7:p. 2] However, unseen events may deplete regular appropriations prior to the end of the fiscal year. When those unknown events occur, additional funds may be necessary so that an agency can continue to operate for the fiscal year.

If an agency requires more funds in a program, it must reprogram funds from one account to another. Notwithstanding the transfer limitations, the transfer of funds may result from three reasons. First, the amount planned for may have been insufficient. The assumptions or rates used in calculations for the preparation of the budget may have been invalid or inadequate. Second, assuming that the proposed amount is sufficient to cover the budget, the President or Congress may not fully appropriate the need. For instance, the Congressional Budget Office (CBO) performs budget estimates using their assumptions and the end result may suggest that the agency may not need all of the funds. It is also possible that the President or Congress may decide that fully funding a program is not justified. It may be possible for the program to survive with less. Third, due to unforeseen events, a need may arise where more resources are needed to deal with a contingency. These events may be due to natural disasters such as a flood or hurricane, a civil disturbance or international problems such as NATO or UN demands like those in Kosovo or East Timor in 1999.

A closer examination of the shortfall is necessary. Not having planned correctly for routine operations is the fault of the organization. While that is a problem, it is a technical calculation issue not directly addressed in this research. The second and third points however pertain to planning budgets and the strategy and politics associated with them.

Supplemental appropriations have been used for a long time and for many reasons. Christopher Wlezien suggests that supplemental requests have been requested for six reasons: budgetary growth, the onset of war, strategic under-appropriations,

transition in executive branch administrations, shifts in the composition of Congress and finally, elections cycles. [Ref. 21:pp. 57-64] However, this work looks at a short time period in hopes to filter out most of those components and focus strictly on strategic under-appropriation.

As Wlezien indicates, appropriations behavior had previously been a two-stage process. [Ref. 12:p. 43] In his study of the 1951 – 1985 period, prior to the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985 (DCA), budget strategy comprised of Congressional strategic under-funding of the regular appropriations. Then, in the second step, the additional funds would be requested in a supplemental. The regular appropriation was under-funded because it was known that additional funds would be obtained in the supplemental. There is no way that mandatory services could be stopped. In this way, Congress could appear to be fiscally responsible and provide funding to the many agencies, but then give more money to the organizations that required more funding.

After the DCA of 1985 passed, Wlezien suggests that the two-step process disappeared and that the appropriations process became a single step process. [Ref. 12:p. 45] The DCA deficit reduction and sequestration process, in a sense, imposed fiscal responsibility. It is suggested that budgets would be planned accordingly and that no funds would be asked for except in an emergency such as war or disaster. Also, unexpected results in economic conditions such as higher than expected inflation or rising unemployment would require additional entitlements to be paid to beneficiaries in mandatory programs. [Ref. 20:p. 59]

While the above reasons for a supplemental are many, there are properties of supplemental, which must be analyzed. A supplemental comes in many forms and can be fit into legislation at any point. In its simplest form, it can show up in a separate bill for appropriating money in addition to funds already appropriated for a given fiscal year. The money can show up in a regular appropriations bill. The appropriate bill can take the form of an omnibus appropriation or perhaps the additional spending is included in a single appropriation. Table 2.1, provided by CBO, lists the supplementals of the 1990s with their associated appropriation and rescission, if any.

Bill Number	Public Law Number	Informal Title	Date Enacted	Budget Authority (Millions of dollars)		
				Supplemental Appropriations	Rescissions	Supplemental Appropriations Net of Rescissions
1990						
H.R. 404	101-302	Dire Emergency Supplemental Appropriations, 1990	5/25/90	4,336	-2,045	2,291
H.J. Res. 655	101-403	Desert Shield Supplemental Appropriations	10/01/90	2,038	0	2,038
1991						
H.R. 1281	102-27 ^a	Dire Emergency Supplemental Appropriations, 1991	4/10/91	5,255	-323	4,932
H.R. 1282	102-28	1991 Desert Shield Supplemental Appropriations	4/10/91	42,626	0	42,626
H.R. 2251	102-55	1991 Dire Emergency Supplemental for Iraqi Refugees	6/13/91	581	-8	573
1992						
H.J. Res. 157	102-229	1992 Disaster Relief and Desert Storm Emergency Supplemental	12/12/91	6,849	0	6,849
H.R. 4990	102-298	1992 Rescissions	6/04/92	0	-8,160	-8,160
H.R. 5132	102-302	1992 Emergency Disaster Assistance for Los Angeles and Chicago	6/22/92	1,191	-8	1,183
H.R. 5620	102-368	1992 Supplemental (Hurricanes Andrew, Iniki, Omar)	9/23/92	12,775	-265	12,510
1993						
H.R. 1335	103-24 ^b	1993 Stimulus Supplemental	4/23/93	0	0	0
H.R. 2118	103-50	1993 Spring Supplemental	7/2/93	3,499	-2,499	1,000
H.R. 2667	103-75	1993 Emergency for Midwest Flood Relief	8/12/93	4,411	0	4,411
H.R. 2295	103-87	1994 Foreign Assistance Appropriations	9/30/93	1,609	0	1,609
1994						
H.R. 3759	103-211	1994 Emergency Supplemental (Los Angeles earthquake)	2/12/94	11,535	-3,157	8,378
H.R. 4568	103-275	1994 FHA Supplemental	7/5/94	*	0	*
H.R. 4454	103-283	1995 Legislative Branch Appropriations	7/22/94	0	-23	-23
H.R. 4426	103-306	1995 Foreign Assistance Appropriations	8/23/94	149	0	149
H.R. 4603	103-317	1995 Commerce, Justice, State Appropriations	8/26/94	1,240	0	1,240
H.R. 4624	103-327	1995 VA-HUD Appropriations	9/28/94	357	-2	355
H.R. 4554	103-330	1995 Agriculture Appropriations	9/30/94	33	0	33
H.R. 4650	103-335	1995 Defense Appropriations	9/30/94	299	0	299
1995						
H.R. 889	104-6	1995 Emergency Supplemental and Rescissions for Defense Readiness	4/10/95	2,318	-3,331	-1,013
H.R. 1944	104-19	1995 Emergency Supplemental and Rescissions for Antiterrorism and Oklahoma City Disaster	7/27/95	7,453	-15,992	-8,539

(Continued)

Bill Number	Public Law Number	Informal Title	Date Enacted	Budget Authority (Millions of dollars)		
				Supplemental Appropriations	Rescissions	Supplemental Appropriations Net of Rescissions
1996						
H.R. 1817	104-32	1996 Military Construction Appropriations	10/3/95	0	-40	-40
H.R. 2492	104-53	1996 Legislative Branch Appropriations	11/19/95	0	-64	-64
H.R. 2126	104-61	1996 Defense Appropriations	12/1/95	0	-563	-563
H.J. Res. 170	104-122	Twelfth Continuing Resolution for 1996	3/29/96	198	0	198
H.R. 3019	104-134	Omnibus Consolidated Appropriations and Rescissions Act, 1996	4/26/96	555	-2,644	-2,089
H.R. 3603	104-180	1997 Agriculture Appropriations	8/6/96	27	0	27
H.R. 3610	104-208	Omnibus Consolidated Appropriations Act, 1997	9/30/96	123	-127	-4
1997						
H.R. 1871	105-18	1997 Supplemental for Disasters and Peacekeeping Efforts in Bosnia	6/12/97	9,163	-7,980	1,183
1998						
H.R. 3579	105-174	Emergency Supplemental Appropriations and Rescissions, 1998	5/1/98	6,006	-2,726	3,280
1999						
H.R. 1141	106-31	Emergency Supplemental Appropriations and Rescissions, 1999	5/21/99	13,097	-1,749 ^c	11,348
H.R. 1664	106-51	Emergency Steel and Emergency Oil and Gas Guaranteed Loan Act, 1999	8/17/99	<u>270</u>	<u>-270</u>	<u>0</u>
Total Decade						
Total				137,993	-51,976	86,017

SOURCE: Congressional Budget Office.

NOTE: H.R. = House of Representatives; H.J. Res. = House joint resolution; FHA = Federal Housing Administration; VA = Department of Veterans Affairs; HUD = Department of Housing and Urban Development.

* = less than \$500,000.

a. Triggered a sequestration.

b. Excludes \$4 billion in mandatory supplemental appropriations for unemployment insurance because that additional funding was offset by the same amount of mandatory offsetting receipts.

c. Includes a 1999 rescission of \$1.25 billion in mandatory budget authority for the Food Stamp program.

Table 2.1. Laws in the 1990s that Provided Supplemental Appropriations or Rescissions. From: [Ref. 4:pp. 8-9]

The supplemental can also be studied from different perspectives. The funds can be divided into mandatory or discretionary programs. Another perspective is defense versus non-defense. Furthermore, funds can then be designated as emergency or non-emergency.

Of course, there is concern as to whether or not a supplemental is composed of pork barrel spending. This may be the fall out in the quest to classifying funds in the realm of emergency versus non-emergency as well as discretionary versus mandatory.

When a supplemental is debated in the federal arena, there are further consequences that result. For instance, funding is restricted by prior public laws. Legislation such as the Balanced Budget and Emergency Deficit Control Act of 1985 and the Budget Enforcement Act of 1990 place limits on spending. Consideration must be given to the rules of pay-as-you-go (PAYGO). PAYGO requires that new, direct spending to be offset with rescissions or to be paid for with new taxes. The net change in the budget must be zero. Another legislative limit is the discretionary budget caps as established in the BEA of 1990 and the BEA of 1997. In this case, discretionary spending may not go above a pre-determined level. While there are control limits in place in an attempt to force fiscal responsibility, there is also a safety valve, which may permit the control and enforcement legislation to be circumvented from their original purpose. It should be noted that war times and poor economic periods are exempt from spending limitations, as are emergency designated appropriations.

Ultimately, there are many reasons for a supplemental. Those reasons are indicative of the properties the supplemental has inherited and that those properties are natural in federal budgeting. The properties of the supplemental are what makes it possible for it to serve as the second step in a two-step appropriation process.

B. PURPOSE OF THE SUPPLEMENTAL

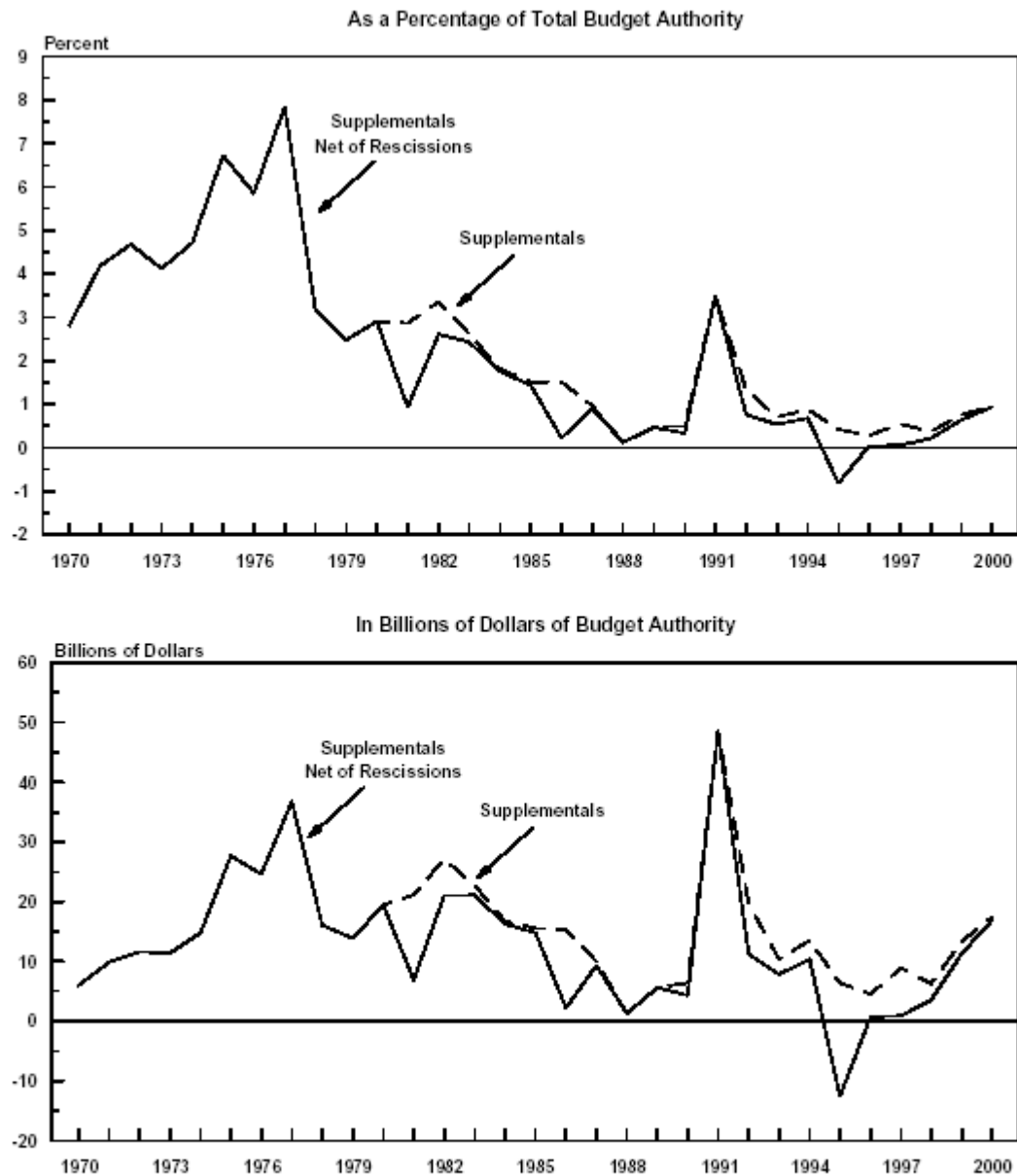
A supplemental appropriation is intended to provide additional funding to government agencies or programs when the regular appropriation will run out before the end of the fiscal year. The reasons for a supplemental may be quite broad. However, some reasons come about from events such as a crisis or natural disaster. In the DoD, such matters could arise from domestic or international situations such as civil disturbance, hurricanes, floods or a change in magnitude of a mission. For instance, the 1999 Supplemental Appropriations Act, Public Law 106-31, provided for funding to the DoD in three sections of the act. Title I was designated for general emergency appropriations while Title II was designated for national security emergency appropriations. Title III was designated for supplemental appropriations that were non-emergency in nature. Appropriation categories that received additional funding were Military Personnel (MILPERS), Operations and Maintenance (O&M), Overseas Humanitarian, Disaster, and Civic Aid (OHDACA), Procurement, and Military

Construction (MILCON). More specifically, some of the money went to paying for some of the damage from Hurricane Georges and contingent peacekeeping operations in Bosnia. The scope of the FY99 supplemental however included much more. Other executive agencies received money and some rescissions and offsets were implemented. The scope of a supplemental act can be broad.

To introduce the scope of the supplemental it is necessary to get an overview of the total dollar value. Figure 2.1 is the historical supplemental spending profile commencing in 1970 and presented through 2000. The top graph indicates the percentage of the federal government's total budget authority for the given fiscal year associated with supplemental appropriations. The bottom graph indicates the total supplemental budget authority in billions of dollars for the applicable fiscal year.

Even though supplementals can serve a wide range of needs, their intent is to fund emergencies or unforeseen events. The Office of Management and Budget (OMB) directs that every effort should be made to execute programs within appropriated amounts and that agencies should postpone activities that require additional funds. [Ref. 21:pp. 110-1, 2]. However, if funds should be necessary for the current fiscal year, then a supplemental should satisfy one of the criteria that follow:

- Existing law requires payments within the fiscal year (e.g., pensions and entitlements)
- An unforeseen emergency situation occurs (e.g., natural disaster requiring expenditures for the preservation of life or property)
- New legislation enacted after the submission of the annual budget requires additional funds within the fiscal year
- Increased workload is uncontrollable except by statutory change
- Liability accrues under the law and it is in the Government's interest to liquidate the liability as soon as possible (e.g., claims on which interest is payable)



SOURCE: Congressional Budget Office.

NOTE: Data for 1970 through 1979 do not break down supplemental appropriations net of rescissions into supplementals and rescissions.

Figure 2.1 Supplemental Spending Gross and Net of Rescissions, 1970-2000 (By Fiscal Year). From: [Ref. 4:p. 4]

In addition, amounts requested should conform to presidential policies. [Ref. 21:p. 30-2] Therefore, the OMB has established guidelines for the use of supplementals and their span of applicability goes beyond just emergencies, but includes other unforeseen events such as inadequately anticipating higher cost of entitlements.

Supplemental appropriations come in many forms. The three typical divisions are discretionary versus mandatory, defense versus non-defense, and emergency versus non-emergency. Discretionary versus mandatory is presented in this section. The other two categories will be represented in the following appropriate sections.

Table 2.2 and Table 2.3 present discretionary and mandatory programs respectively. [Ref. 4:pp. 14 and 20] They represent how supplemental funding was divided by sub-committees and agencies in the 1990s and do not consider offsets or rescissions.

Figure 2.2 plots the total budget authority in billions of dollars for the 1990s and was formulated from data provided in Table 2.2 and Table 2.3. This figure represents the division of supplementals into discretionary and mandatory accounts. Supplementals have been mostly discretionary in nature. CBO states, “almost 92 percent of the discretionary supplemental spending enacted between 1991 . . . and 1999 was designated as emergency spending. [Ref. 4:p. 19]

Discretionary Supplemental Spending in the 1990s
(By fiscal year, in millions of dollars of budget authority)

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total, 1990- 1999
By Appropriations Subcommittee											
Agriculture and Rural Development	128	69	2,155	1,694	400	14	157	314	175	701	5,807
Commerce, Justice, State, and the Judiciary	692	157	1,082	764	1,717	187	126	65	-30	467	5,227
Defense	2,034	43,579	9,122	2,920	1,257	2,711	999	1,921	2,835	8,582	75,960
District of Columbia	0	100	0	0	0	0	0	0	0	0	100
Energy and Water Development	75	648	46	205	70	0	189	592	110	2	1,937
Foreign Operations	895	-194	0	630	149	275	318	0	0	1,644	3,717
Interior	29	0	164	92	226	-33	8	404	322	68	1,280
Labor, Health and Human Services, and Education	277	265	713	755	265	0	0	358	11	130	2,774
Legislative Branch	2	0	0	0	1	0	0	39	28	10	80
Military Construction	10	0	453	140	0	0	38	6	26	506	1,179
Transportation	0	0	146	380	1,758	-82	682	704	338	204	4,130
Treasury, Postal Service, and General Government	6	0	58	5	552	146	-337	7	57	38	532
Veterans, Housing, and Independent Agencies	148	256	4,585	2,259	6,260	3,189	2,332	3,550	1,855	900	25,334
Unassigned	0	1,223	0	0	0	0	0	0	0	0	1,223
Total	4,296	46,103	18,524	9,844	12,655	6,407	4,512	7,960	5,727	13,252	129,280
By Agency											
Legislative Branch	2	0	0	0	1	0	0	39	28	10	80
Judicial Branch	21	83	31	61	0	16	0	0	0	1	213
Department of Agriculture	137	69	2,155	1,695	600	-19	245	383	236	706	6,207
Department of Commerce	123	8	167	210	45	50	26	63	0	317	1,009
Department of Defense (Military)	2,044	43,579	9,575	3,060	1,257	2,683	1,037	1,927	2,830	9,081	77,073
Department of Education	12	8	106	441	195	0	0	102	0	0	864
Department of Energy	0	623	0	0	0	0	-212	0	208	0	619
Department of Health and Human Services	269	257	107	6	10	0	0	19	11	101	780
Department of Housing and Urban Development	2	545	459	465	1,518	222	50	254	250	-230	3,535
Department of the Interior	20	25	164	118	26	0	161	339	61	64	978
Department of Justice	185	2	57	183	20	113	0	0	0	80	640
Department of Labor	10	0	500	311	10	0	0	0	0	0	831
Department of State	420	1,078	86	0	700	0	0	0	12	527	2,823
Department of Transportation	1	20	146	432	1,583	-54	682	674	297	207	3,988
Department of the Treasury	0	0	54	15	0	55	-5	2	57	5	183
Department of Veterans Affairs	94	25	100	0	68	0	0	0	0	0	287
Corps of Engineers	75	0	46	175	70	0	165	585	105	0	1,221
Other Defense (Civil programs)	1	0	57	0	0	0	0	0	0	0	58
Environmental Protection Agency	2	0	0	37	0	0	0	0	0	0	39
Executive Office of the President	-16	0	0	6	553	12	3	0	0	1	559
Federal Emergency Management Agency	53	0	3,968	1,735	4,731	3,282	2,282	3,300	1,605	1,130	22,086
General Services Administration	0	0	4	-18	0	66	0	0	0	2	54
International Assistance Programs	785	-337	0	630	132	275	318	0	25	1,177	3,005
National Aeronautics and Space Administration	-1	0	0	20	166	-365	0	-4	0	0	-184
Small Business Administration	0	0	740	245	981	0	100	0	0	0	2,066
Other Independent Agencies	57	118	2	17	-11	71	0	37	6	77	374
Allowances	0	0	0	0	0	0	-340	240	-4	-4	-108
Total	4,296	46,103	18,524	9,844	12,655	6,407	4,512	7,960	5,727	13,252	129,280

SOURCE: Congressional Budget Office.

Table 2.2. Discretionary Supplemental Spending in the 1990s. From: [Ref. 4:p. 14]

Mandatory Supplemental Spending in the 1990s (By fiscal year, in millions of dollars of budget authority)

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total, 1990- 1999
By Appropriations Subcommittee											
Agriculture and Rural Development	1,200	1,500	400	0	0	0	0	0	0	0	3,100
Commerce, Justice, State, and the Judiciary	8	14	0	0	0	0	0	0	0	0	22
Defense	0	0	0	0	0	0	0	0	0	0	0
District of Columbia	0	0	0	0	0	0	0	0	0	0	0
Energy and Water Development	0	0	0	0	0	0	0	0	0	0	0
Foreign Operations	0	0	0	0	0	0	0	0	0	0	0
Interior	434	0	0	0	0	0	0	0	0	0	434
Labor, Health and Human Services, and Education	1	17	238	4,040 ^a	61	0	0	0	0	0	4,357
Legislative Branch	0	0	0	0	0	0	0	0	0	0	0
Military Construction	0	0	0	0	0	0	0	0	0	0	0
Transportation	0	15	0	0	0	0	0	9	0	115	139
Treasury, Postal Service, and General Government	0	0	0	0	0	9	0	0	0	0	9
Veterans, Housing, and Independent Agencies	435	963	500	475	801	0	0	928	550	0	4,652
Total	2,078	2,509	1,138	4,515	862	9	0	937	550	115	12,713
By Agency											
Legislative Branch	0	0	0	0	0	0	0	0	0	0	0
Judicial Branch	5	5	0	0	0	0	0	0	0	0	10
Department of Agriculture	1,457	1,500	400	0	0	0	0	0	0	0	3,357
Department of Commerce	0	0	0	0	0	0	0	0	0	0	0
Department of Defense (Military)	0	0	0	0	0	0	0	0	0	0	0
Department of Education	0	0	0	0	0	0	0	0	0	0	0
Department of Energy	0	0	0	0	0	0	0	0	0	0	0
Department of Health and Human Services	0	17	0	40	0	0	0	0	0	0	57
Department of Housing and Urban Development	0	0	0	0	0	0	0	0	0	0	0
Department of the Interior	177	0	0	0	0	0	0	0	0	0	177
Department of Justice	3	9	0	0	0	0	0	0	0	0	12
Department of Labor	1	0	238	4,000 ^a	61	0	0	0	0	0	4,300
Department of State	0	0	0	0	0	0	0	0	0	0	0
Department of Transportation	0	15	0	0	0	0	0	9	0	115	139
Department of the Treasury	0	0	0	0	0	0	0	0	0	0	0
Department of Veterans Affairs	435	963	500	475	801	0	0	928	550	0	4,652
Corps of Engineers	0	0	0	0	0	0	0	0	0	0	0
Other Defense (Civil programs)	0	0	0	0	0	0	0	0	0	0	0
Environmental Protection Agency	0	0	0	0	0	0	0	0	0	0	0
Executive Office of the President	0	0	0	0	0	0	0	0	0	0	0
Federal Emergency Management Agency	0	0	0	0	0	0	0	0	0	0	0
General Services Administration	0	0	0	0	0	0	0	0	0	0	0
International Assistance Programs	0	0	0	0	0	0	0	0	0	0	0
National Aeronautics and Space Administration	0	0	0	0	0	0	0	0	0	0	0
Small Business Administration	0	0	0	0	0	0	0	0	0	0	0
Other Independent Agencies	0	0	0	0	0	9	0	0	0	0	9
Total	2,078	2,509	1,138	4,515	862	9	0	937	550	115	12,713

SOURCE: Congressional Budget Office.

a. Includes \$4 billion in mandatory supplemental appropriations for unemployment insurance, which in other tables in this report is netted against the same amount of mandatory offsetting receipts.

Table 2.3. Discretionary Supplemental Spending in the 1990s. From: [Ref. 4:p. 20]

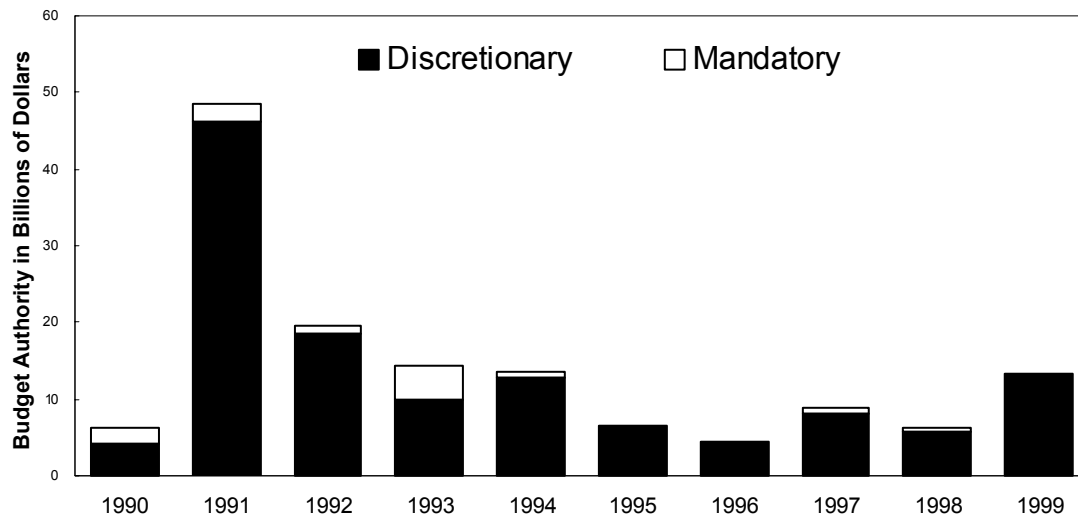


Figure 2.2. Discretionary vs. Mandatory Supplemental Spending in the 1990s. From: [Ref. 4:pp. 14 and 20]

Discretionary funding can be subdivided into the following three categories: defense, international, and domestic. Figure 2.3 represents this division of needs. Essentially every year has each of the three categories.

Defense will be discussed in depth in subsequent sections, however, defense supplementals were “intended primarily to bolster defense readiness and pay for peacekeeping missions” [Ref. 4:p. 17] CBO goes on to discuss the needs met by the international and domestic categories. International funding provided support to the new independent states of the former USSR, international natural disasters, and finally economic support to foreign countries. The Federal Emergency Management Agency (FEMA) received most of the funds intended for domestic reasons including the downtown Chicago floods, Hurricane Hugo, and the Mount St. Helens Eruption. [Ref. 18:p. 11]

Generally, Congress cannot control mandatory funding because of entitlement legislation. For instance, The Food Stamp program was under-appropriated due to “changes in participation rates and worse-than-predicted economic conditions.” [Ref.

4:p. 18] Other programs receiving funds included the unemployment insurance trust fund and the veterans' compensation programs.

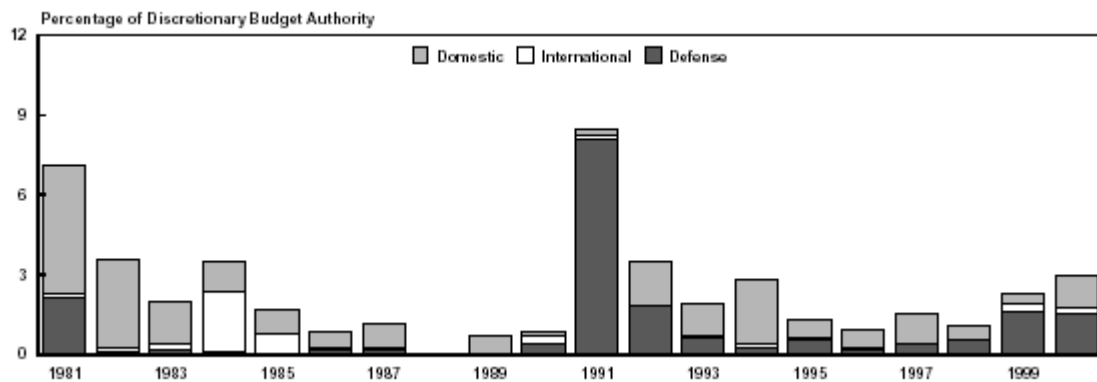


Figure 2.3. Discretionary Supplemental Spending, by Category, 1981-2000 (By Fiscal Year). From: [Ref. 4:p. 17]

Finally, as McCaffery suggests, supplementals are highly symbolic because they show a rapid response to a current year crisis. [Ref. 8:p. 18] For example, the terrorist attacks on September 11, 2001 in the United States resulted in an immediate response from the federal government. \$40 billion was appropriated one week later in response to the attacks on the World Trade Center and the Pentagon.

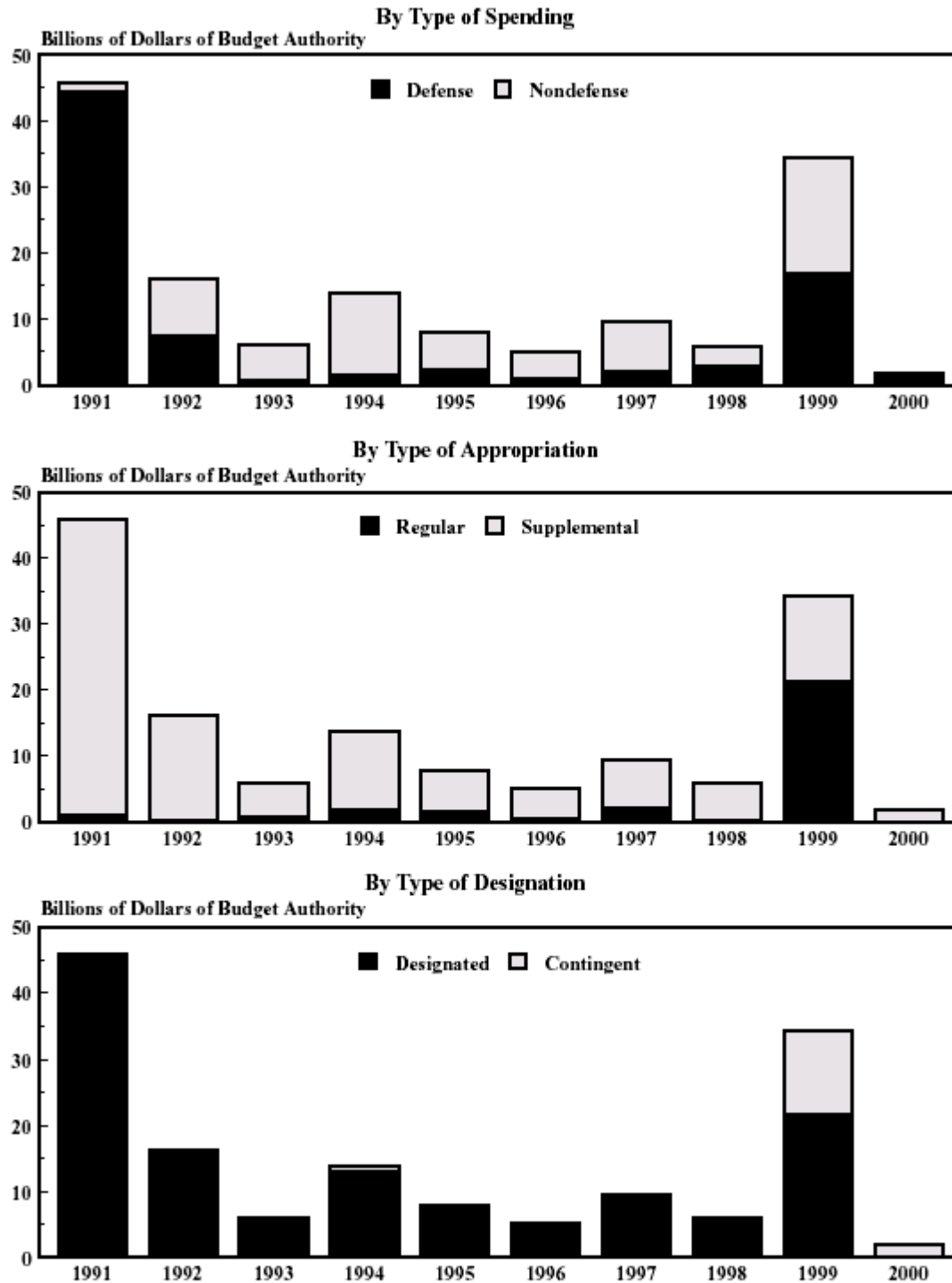
C. DEFINING EMERGENCY AND NON-EMERGENCY SUPPLEMENTALS

As discussed in a previous section, the OMB recommended five criteria to use the emergency designation because of legislative requirements established in the DCA and the subsequent BEA. However, the PAYGO requirement can be circumvented by the “safety valve” implemented in the same legislation by using the emergency designation. The OMB attempted to define an emergency as a necessary expenditure, sudden, urgent, unforeseen, and not permanent. [Ref. 4:p. 19 and 21] However, these suggested guidelines have not been implemented in any other legislation. Thus, a historical evaluation of the use of the emergency designation has been necessary in order to understand what emergency may mean. As Godek concluded for sound budgeting reasons, “it is imperative that Congress exercise good budgetary discipline regarding emergency supplemental appropriations.” [Ref. 3:p. 44] The void of any additional guidance of emergency funding requires an understanding of past uses.

The OMB has defined emergency appropriation as “an appropriation that the President and the Congress have designated as an emergency requirement. Such spending is not subject to the limits on discretionary spending, if it is discretionary spending, or the pay-as-you-go rules, if it is mandatory.” [Ref 22:p. 18] Such rules are set in the DCA of 1985, which also requires that legislation include the standard “emergency clause” in order for the safety valve to be utilized. However, as discussed earlier, no specific guidance provides a definition of “emergency.”

To introduce the emergency spending amounts, the CBO has provided historic information by breaking it up into the following three categories: type of spending, type of appropriation, and type of designation. Figure 2.4 plots emergency spending from 1991 to 2000. The data for FY00 is incomplete and should be ignored in this immediate discussion due to the publication of the report prior to the end of FY00. However, it is evident that emergency spending spans the range of approximately \$5.1 billion to about \$45.8 billion. [Ref. 5:p. 4]

The emergency designation has a use in both regular and supplemental appropriations. Therefore, an emergency appropriation is not synonymous with supplemental appropriation. The “emergency” designation is only a means to circumvent the fiscal limitations enacted by both DCA Acts I and II and the subsequent BEAs. The actual applicable bill probably has more to do with the timing of the requested funds and this will be discussed in the process of the supplemental. However, large amounts of emergency money can be stuffed into a regular appropriation. Operations Desert Shield and Desert Storm in 1991 designated funding as an emergency. About \$44.8 billion was enacted in a supplemental bill, but \$1.0 billion was delivered by regular appropriation. [Ref. 18:p. 8] By the end of the decade, regular appropriations contained much more emergency designated funds. The 1999 Omnibus Appropriation Act contained more than \$21 billion in emergency spending. Therefore, the use of the emergency designation goes beyond the supplemental.



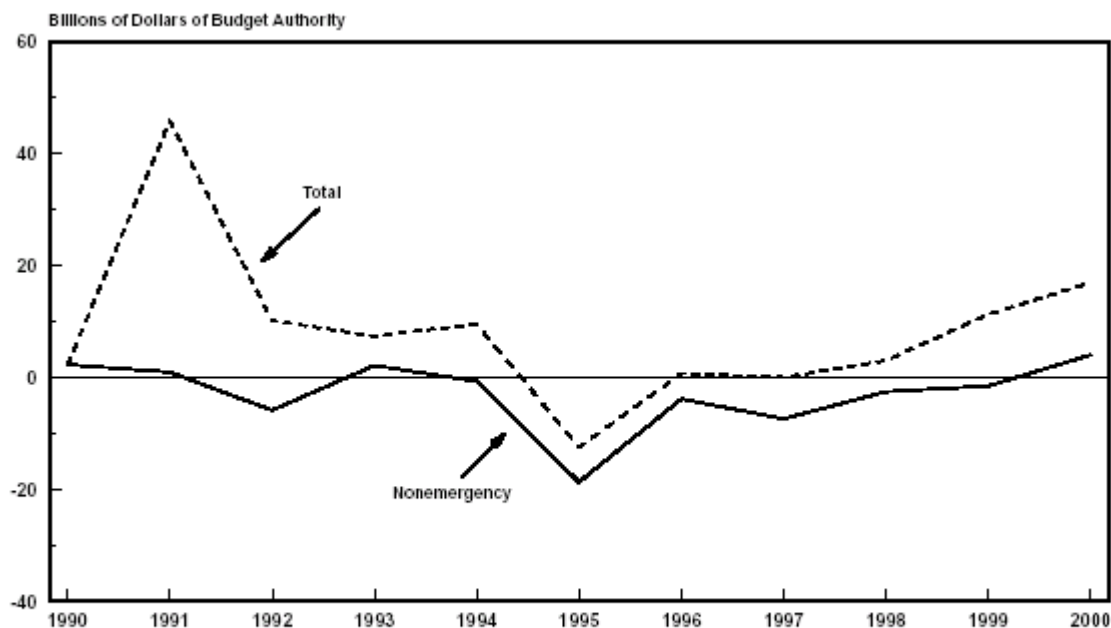
SOURCE: Congressional Budget Office.

NOTES: Data are current as of June 3, 1999. The large amounts in 1991 reflect the costs of Operation Desert Shield/Desert Storm.

Figure 2.4. Emergency Spending by Type, 1991-2000. From: [Ref. 6:p. 5]

The more important issue in studying the supplemental will be to determine how much of the funding is emergency versus non-emergency. CBO points out “emergency spending and supplemental spending were closely aligned through most of the 1990s.” [Ref. 4:p. 19] However, not all supplemental spending is an emergency.

In non-emergency supplementals, discretionary spending cannot go over the spending caps and mandatory programs must be offset under the PAYGO rule. There is little budgetary space between budget proposals and the designated spending caps. Therefore, non-emergency funding must be offset. Figure 2.5 indicates that non-emergency spending is almost always offset with rescissions and usually with more than what was required. The solid line represents the net change in non-emergency spending. This is determined by deducting rescissions from the new budget authority. The net change added to the budget authority for the fiscal year up to that date must remain under the discretionary budget cap. Between 1994 and 1999, some emergency supplementals were offset to various degrees even though it was not required. [Ref. 4:p. 22]



SOURCE: Congressional Budget Office.

NOTE: Excludes regular appropriations designated as emergencies.

Figure 2.5. Total and Nonemergency Supplemental Spending Net of Offsetting Rescissions, 1990-2000 (By Fiscal Year). From: [Ref. 4:p. 21]

D. SUPPLEMENTALS AND THE DEPARTMENT OF DEFENSE

DoD Components normally do not budget for contingency operations Therefore, DoD Components must accomplish directed contingency operations using funds available to the cognizant command or unit, independent of the receipt of specific funds for the operation. [Ref. 14:p. 23-1]

As Figure 2.4 depicts, emergency funding in the 1990s was a mixture of defense and non-defense funding. Interestingly, the defense spending usually accounts for less than half of the emergency spending from year to year. It is reasonable to assume that supplementals are comprised of emergency funding and therefore, they warrant further discussion. Recall that supplementals are not the same as an emergency appropriation as the “emergency” designation may be used in either a regular or supplemental appropriation. The discussion in this section will focus on the broad scope of the supplemental and therefore, not entirely on emergency funds.

Table 2.2 indicates that the DoD had about \$77.1 billion throughout the 1990s. Supplementals ranged from a low of \$1.037 billion to a high of \$43.579 billion for an average of \$7.707 billion per year. However, the high value is a result of the Persian Gulf War in 1991 and heavily influences the average. By visual determination, it is apparent that a more normal amount in a supplemental was about \$2 billion annually. Why were these public funds necessary? A look at the funding levels and the needs are discussed next.

The Department of Defense planned its defense programs by using threat-based assumptions. Furthermore, there have usually been more threats than funds to execute all the programs. As CBO indicates, there is a funding imbalance between the “sustaining budget” and the “actual budget” and that the sustaining budget is always higher. [Ref. 16:p. 15] For instance, the appropriation for National Defense (Budget function 050) was \$289 billion, but that the sustaining budget estimate was \$340 billion for FY00. This imbalance is a result of constrained resources (money) to fund desired activities. Also, it should be noted that the sustaining budget was based on the DoD funding activities for baseline operations. Baseline operations are those which are required to maintain readiness of the given force structure size established, fund research and development, and finally, maintain military facilities and housing. This difference establishes that there

is already not enough money for the fiscal year when the regular appropriation is enacted. Perhaps a supplemental is necessary to partially pay for the imbalance to just maintain the baseline costs of the military.

Perhaps the defense supplemental is for the necessity to pay for contingent operations. The United States Code defines contingency operations as:

A military operation that (A) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or (B) results in the call or order to . . . members of the uniformed services . . . during a war or during a national emergency declared by the President or Congress. [Ref. 15]

Financial Management Regulations in the DoD have defined a contingent operation as:

The support for peace operations, major humanitarian assistance efforts, noncombatant evacuation operations (NEO), and international disaster relief efforts. [Ref. 14:p. 23-1]

To put the meaning of contingency operation into perspective, it may be better to understand more broadly what the term contingency operation has come to mean. In the 1990s, contingent operations have resulted from peacekeeping activities. Some peacekeeping operations took place in Haiti, Somalia, Rwanda, East Timor, and former Yugoslavia (Bosnia/Kosovo). These “peacekeeping” operations were broadly defined by the United Nations as those that “promote, maintain, enforce, or enhance the possibilities for peace,” while DoD “categorizes peace operations among its ‘operations other than war’ [OOTW].” [Ref. 23:pp. 1-2]

Supplements are probably a matter of necessity to the DoD. Without them, funding would not be available to deal with contingent operations. The incremental costs of contingency operations may drive the supplemental or perhaps, it may be the budgeted imbalance between actual and sustaining budgets.

E. DEFENSE AND INCREMENTAL COSTS

The DoD uses incremental costing to track costs above baseline operations and these costs have been tracked since the beginning of the 1990s. It may have been necessary to start this because the BEA of 1990 coupled spending caps with the PAYGO rule and the subsequent sequestration process if any spending caps were violated. Of course, if a sequestration is ordered, essentially no new budget authority is issued and then the DoD would be required to reprogram by default. The way to get around the sequestration would be to use the “emergency” designation in appropriations legislation. If it can be justified that the incremental costs are a contingent or emergency operation, then more funds may be appropriated at the expense of increased public debt.

Many defense operations in the 1990s were designated as contingency operations. From a financial management perspective, the terms must be defined clearly. The DoD states that “the cost associated with contingency operations are limited to the incremental costs of the operation,” and that incremental costs are the “costs that are above and beyond baseline training, operations, and personnel costs.” [Ref. 14:p. 23-6] The DoD Financial Management Regulation (FMR) goes into extensive detail to define an incremental cost. The FMR not only explains general parameters of incremental costs, but it provides fine details. Examples of general parameters of incremental costs include the following: Does not include the cost of property or services acquired by the DoD that were paid for by another agency; Does not include investment costs; It does include fixing deficiencies that were necessary to support the contingency operation that would not have been incurred otherwise. [Ref. 14:pp. 23-17 and 23-18] Other examples of incremental costs are provided by the FMR including the following:

- Military entitlements such as premium pay, hazardous duty pay, etc. over and above the normal monthly payroll costs
- Overtime, travel and per diem of permanent DoD civilian personnel in support of a contingency
- Transportation costs of moving personnel, material, equipment, and supplies to the contingency or contingency staging area
- Cost of increased flying hours in excess of the level of flying hours otherwise programmed and budgeted for, except that, in the case of humanitarian assistance operations undertaken under the authority of 10

U.S.C. 2551 or similar authority, all flying hour costs shall be included for all flights made for the primary purpose of providing the humanitarian assistance

- Service specific costs for increased OPTEMPO, such as steaming costs for the Navy

Assumptions determine cost by using historic rates and quantities, but in defense, planning is only the first step. The execution phase can be much different because of contingent operations. Additional Operations and Maintenance (O&M) costs caused by increasing ship steaming hours or aircraft flying hours may result in increased funding to accomplish new missions that were not anticipated. Also, Military Personal (MILPERS) pay obligations should increase for possible additional special or incentive pays. It should be apparent that any military operation above baseline activities requires additional funding.

Peacekeeping operations have a cost that can be traced back to their associated operation. However, these costs were not categorized until starting in the 1990s. [Ref. 23:p. 6]. These contingent costs have been classified as DoD incremental costs for United States international peace and security commitments. Many of these incremental costs can be tracked to multi-year operations. For example, four of the seven operations in the 1990s took place in Southwest Asia totaling \$9.070 billion dollars through mid-FY01. [Ref. 23:pp. 15-16] All of the 1990s through mid-FY01 saw a total of \$29.301 billion in incremental costs. Finding a bill payer is the next logical step.

While identifying the bill payer, there is an interim means of providing funds to pay for the additional missions. The Navy Flying Hour program is a good example. Money is reappropriated from fourth quarter operations budget to the operating quarter in need. At some later point, flying hours are reduced in order to “fly to the dollars,” money is reprogrammed between accounts, or some mixture of the two. [Ref. 7:pp. 431-433] “Fly to the dollars” means fly less or stop flying certain squadrons. A second option is to reprogram between accounts. This is possible multiple times through the fiscal year as long as the transfer limits of reprogramming are adhered to.

After the interim stopgap, a means to ultimately pay for the increased requirements must be found. There are two basic options in order to pay for these

activities. The first is to absorb the new mission or operation requirements into the given budget. The second option is to request additional funding. The first option has already been discussed to a degree. The reapportioned and reprogrammed funds become permanent. The later execution of programs is either not possible or some other program cannot completely operate to the budgeted level.

The second option, to request additional funds, is the purpose of the supplemental. It pays for the incremental costs associated with conducting contingent or emergency operations. Those roles of these missions derive additional costs that go beyond the funding in regular appropriations.

While the DoD would like to get additional funding for all contingencies or unplanned higher costs, that is not always reality. For instance, in preparation for the mid-year review of the FY02 O&M, Navy appropriation, the Office of the Chief of Naval Operations distributed an early warning memorandum. "Funds available to solve problems identified during the mid-year review will be extremely limited, therefore claimants should have plans in place to execute programs within the resources currently available to them." [Ref. 17:p. 1] The same memo suggests that only operations that pertain to war will probably be funded by supplemental appropriation. "Any requirements addressing the cost of war should be clearly and separately identified."

Finally, while money can be appropriated to the individual service accounts such as Military Personnel, Navy (MPN), three other accounts have come into creation in an attempt to deal with the defense supplemental. The three accounts are the following: Defense Emergency Response Fund (DERF); Overseas Contingency Operations Transfer Fund (OCOTF); Overseas Humanitarian, Disaster, and Civic Aid Fund (OHDACA). Money may be appropriated into any of the three defense-wide accounts. The money is designated for specific contingencies and in some cases the money is designated for specific service accounts.

DERF was established in 1989 by Public Law (PL) 101-165, the 1990 Defense Appropriations Act. It is available to fund Military Support to Civil Authorities (MSCA) and Foreign Disaster Assistance. [DoD Directive 3025.1-M, June 1994, p. 13.] The Secretary of Defense may use the funds for immediate action prior to a formal request

from other federal departments and agencies and from state and local governments for assistance. The money would remain available until it was expended. It was initially funded with \$100 million to budget for contingency operations. However, based on the \$7.7 billion annual supplement for the 1990s, \$100 million may be considered to be insignificant.

PL 104-208, the 1997 Omnibus Consolidated Appropriations Act, established OCOTF in 1997. Its initial funding was approximately \$1.140 billion and was to pay for contingent operations. The money was available for transfer to other O&M accounts and it would lapse when the normal appropriation account lapsed. The OCOTF account also received funds in FY98 thru FY01.

The 1997 Omnibus Consolidated Appropriations Act also established the third account OHDACA in 1997. This appropriation code also received funding from FY98 thru FY01. It was originally funded with \$49 million and would lapse at the end of the fiscal year. The programs eligible for the funding are defined in the United States Code. Examples of how this funding could be used include the following: medical and dental care, rudimentary construction and repair of public facilities, detection and clearance of landmines. [Ref. 24]

F. SUPPLEMENTAL APPROPRIATION PROCESS

Budgeting turns out to be an incremental process, proceeding from a historical base, guided by accepted notions of fair shares, in which decisions are fragmented, made in sequence by specialized bodies, and coordinated through repeat attacks on problems and through multiple feedback mechanisms. [Ref. 13:p. 62]

1. History

Prior to the Congressional Budget and Impoundment Control Act of 1974 (BCA), asking for supplementals was typical of the government. Ever since the first Congress in 1790, supplemental appropriations have been used in federal spending. [Ref. 4:p. 1] Over the last two centuries, legislation has attempted to control spending. In 1974, the BCA was a mechanism to control the planning process. Furthermore, the control of supplementals became more formalized. Supplementals were to be incorporated into the President's budget request by including an allowance for the anticipated supplemental.

[Ref. 4:p. 2] However, this is difficult to do. With so many needs and the presence of constrained resources, it may be too difficult to fund a buffer account.

Recall that when DERF was initially funded for FY90, it was only \$100 million or about 1.3% of the average annual supplemental. That appeared to be a token deposit for this regular appropriation account that had not been funded for the previous 16 years. Of course, those funds would not lapse and were open to obligation in any future years. Other accounts have been established since DERF. For FY97, the OCOTF and OHDACA were established in the DoD annual appropriation act. However, these two regular appropriations appeared to be stashed with funds that were already designated for contingent spending and had to be used within a designated time period.

Finally, with a safety valve in place to over-ride budgetary spending caps and deficit controls, it appears that there is no need for a buffer account. The emergency designation in the legislation will make it possible to override previous fiscal planning. In a manner of speaking, the regular appropriation could become a budget buster by the simple act of adding a supplemental to the fiscal year with no offsets or rescissions.

There is an acknowledgement that spending contingencies occur, but the funding is just enough to meet the legislative requirement. Indeed, additional funds are necessary to stock these accounts. Not all the funding comes from the regular appropriation and thus, additional funds are still required in a supplemental.

2. Basic Process

A supplemental proposal generated by the agency is sent to OMB for consideration. Then, “requests that are known at the time the budget is prepared and approved are normally transmitted to Congress with the budget, rather than later as separate transmittals.” [Ref. 22:p. 30-2] It will then take OMB and the White House no less than three weeks to consider proposals for supplementals or amendments that are not transmitted in the annual budget. [Ref. 22:p. 110-2]

There are two ways that the President can adjust the budget. First, a supplemental is requested for the current budget year in which an appropriation bill has already been approved. Second, an amendment could be sent to Congress for the budget year being debated, assuming that the President’s Budget (PB) had already been transmitted to

Congress. [Ref. 22:p. 110-1] Proposed revisions must conform to the President's policies. In general, the OMB directs that every effort should be made to postpone actions that require a supplemental. However, if a supplemental is proposed, the agency should "submit proposals that decrease or eliminate amounts whenever such changes are warranted," such as offering offsets or rescissions. [Ref. 22:p. 110-1]

The military does not use the same PPBS system as used in the appropriation process for supplementals. There is no planning necessary because, conceptually, supplemental funds cannot be planned for. They are in response to emergent needs at the moment because of some crisis or disaster. So, while planning for funds in PPBS begins almost two years in advance, supplemental funds must be provided for quickly. McCaffery states that supplementals pass quickly relative to regular appropriations. [Ref. 8:p. 5] Data from 1974 to 1999 from Godek support this. [Ref. 3:p. 34] As determined by McCaffery, about 44% of the supplementals were introduced and enacted in two months and 80% of them in four months. This is shorter compared to the ten month, or greater, regular appropriation as stated by McCaffery.

3. Initiating Emergency Spending

The President or Congress may initiate emergency spending. When Congress initiates emergency bills, the funding is designated "contingent". Finally, when the bill becomes public law, the funding is officially designated "emergency." Both Congress and the President must agree to designate funding as emergency. Figure 2.4 illustrates this property. At the time the updated CBO memorandum, Emergency Spending Under the Budget Enforcement Act, was published in June of 1999, FY00 had not begun, but money had been designated and no appropriation had been signed into law yet. The earliest appropriation for FY00 was the MILCON bill in August 1999. [Ref. 1,1999:p. 2-4] McCaffery computed that Congress originated about 33% of the emergency designated funds in the 1990s. [Ref. 8:p. 4]

Figure 2.4 also shows which appropriation process was used to gain emergency funding. Funding either came from the regular or supplemental appropriation process. As the middle bar graph shows, emergency spending usually is delivered by supplementals; however, the regular appropriation also serves as a method of delivering emergency funds. In 1999, the use of the regular appropriation to deliver emergency

funds was used extensively and accounted for more than half of the emergency spending for the year.

4. Non-Emergency Offsets

Non-emergency appropriations are required to be offset by some means. If no rescission of prior budget authority is recommended, then a violated budget cap causes a sequestration of funds. It is an agency's responsibility to recommend offsets to the President to prevent sequestration because it would be an undesirable event.

The Congress may accept or reject the President's proposed rescission and Congress may initiate its own rescissions. In every year of the 1990s, except 1991, Congress exceeded the President's recommended rescissions and most of the rescissions were discretionary in nature. [Ref. 4:p. 11] As CBO indicates, rescissions enacted totaled \$52 billion.

The DoD is not exempt from the offset requirement. As McCaffery suggests, each service component must share the burden of the offset equally. [Ref. 8:pp. 10-11] He goes on to further state that while this may seem fair, it really is not a fair practice because generally the supplemental is not shared equally. Therefore, some services benefit and others will lose net funding.

G. SUMMARY

The supplemental appropriation is a complex appropriation. It can be studied from many perspectives, which include discretionary versus mandatory, defense versus non-defense, and emergency versus non-emergency. Furthermore, the process is different and generally, rescissions must be considered. It can be studied from the political aspect too by looking at which government entity initiates the proposals.

The need for a supplemental may result from two possibilities. It could be a budget strategy, namely strategic under-funding as defined by Wlezien, or it could be due to a funding imbalance. Specifically for the Defense function, "there has been a gap in the military requirements established to combat threats and the amount of funding available." [Ref. 16:p. xiv] In order to reduce this "imbalance," requirements would have to be lowered, funding would have to be increased, or a mixture of the two. The supplemental is a method in which defense may gain additional money. Another issue is

that defense could be intentionally under-budgeting a regular appropriation and then funded additional amounts to complete basic military functions.

Incremental costing is essential to understanding how defense is budgeted and how the supplemental affects defense. Since it is generally accepted that federal budgeting is done incrementally, the study of incremental costs may unlock the nature of defense budgeting.

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III. SUPPLEMENTAL BY YEAR

A. INTRODUCTION

The government was composed of a Democratic President and a Republican Congress from 1996 through 2000. During the five-year period, eight supplemental spending appropriations were distributed in three different types of appropriations. They were distributed into three stand-alone supplementals, three omni-bus appropriations, and two regular appropriations.

During the period, the DoD was continuously involved in peacekeeping operations in two major geographic regions. The first region was Iraq in Southwest Asia. The second region was the former country Yugoslavia. Within the former Yugoslavia, United States Armed Forces were in Bosnia and Kosovo. Iraq and Bosnia had been ongoing operations since the early 1990s. However, by fiscal measures, action started in Kosovo in FY99.

Regular and supplemental spending paid to support these missions. Data were collected on both appropriations and incremental costs for the Defense function during the 1996 through 2000 fiscal year period.

Table 3.1 lists the supplemental appropriations for the fiscal years 1996 through 2000. It provides the short title as enacted and the public law number. Data in future tables and text will refer to public law numbers only.

Fiscal Year	Public Law	
	Number	ShortTitle (enacted)
96	104-134	Omnibus Consolidated Appropriations and Rescissions Act of 1996.
96	104-208	Omnibus Consolidated Appropriations Act, 1997.
97	105-18	1997 Emergency Supplemental Appropriations Act for Recovery from Natural Disasters, and for Overseas Peacekeeping Efforts, Including Those in Bosnia.
98	105-174	1998 Supplemental Appropriations and Rescissions Act.
99	105-277	Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999.
99	106-31	1999 Emergency Supplemental Appropriations Act.
00	106-246	Emergency Supplemental Act, 2000.
00	106-259	Department of Defense Appropriations Act, 2001.
Note: There may be more than one short title (as enacted) for a public law.		

Table 3.1. Public Laws with Defense Supplemental Funding. From: [Ref. 25]

	FY96	FY96	FY97	FY98	FY99	FY99	FY00	FY00
Public Law No.	104-134	104-208	105-18	105-174	105-277	106-31	106-246	106-259
Introduced ^a	3/5/96	6/11/96	6/12/97	3/27/98	7/24/98	3/17/99	5/11/00	6/1/00
Enacted ^a	4/26/96	9/30/96	6/12/97	5/1/98	10/21/98	5/21/99	7/13/00	8/9/00
Total Elapsed Time ^d	2 months	4 months	1 month	2 month	3 months	3 months	3 months	3 months
(Budget Authority in Millions of Dollars)								
Supplemental ^b	962	123	1,930	2,860	8,324	10,887	7,356	1,779
Rescissions ^b	1,032	123	1,930	0	0	31	322	0
Net, Defense Supplemental	-70	0	0	2,860	8,324	10,856	7,035	1,779
Emergency ^b	858	123	1,846	2,163	2,083	4,065	154	0
Contingent ^b	0	0	0	697	6,239	6,822	6,983	1,779
No Emergency ^b	105	0	83	0	2	31	219	0
% emergency	89%	100%	96%	76%	25%	37%	2%	0%
% contingent	0%	0%	0%	24%	75%	63%	95%	100%
% no emergency	11%	0%	4%	0%	0%	0%	3%	0%

Notes:

a Data listed in Library of Congress on-line services through the Thomas legislative website.

b Amounts were tabulated from the applicable public law and represent enacted values only.

Amounts may not necessarily be obligated due to emergency designation.

c Amounts are new budget authority in millions of dollars.

d Time elapsed is within a period of time.

e Some differences may be due to rounding error.

Table 3.2. Characteristics of Supplemental Funding Laws. From: [Refs. 25, 28-35]

Table 3.2 indicates the time elapsed from the time a bill was introduced to enactment. Also, it summarizes the amount of the funds that went into a supplemental appropriation and the amount of rescissions. The supplemental amount is further divided into three categories of designation. They are further represented by the percentage in each category. The three categories are emergency, contingent, and non-emergency. These categories indicate the intention of the both the President and Congress, but do not necessarily indicate what really happened to those funds. For instance, emergency funds and non-emergency funds are available for immediate obligation, but contingent funds are not.

When funds have been designated an emergency, both the President and the Congress have agreed to use the emergency designation as prescribed in the Balanced Budget and Emergency Deficit Control Act of 1985. In this case, the President makes a written request to Congress to make certain funding an emergency. If Congress concurs

with the request, then a legal statement is written into the bill. Once the law is enacted, the funding is designated emergency. The emergency funding is immediately available for obligation. Next, if funds are non-emergency, then the President and the Congress do nothing special and write the bill like a regular appropriation. Again, the funds are available for immediate obligation once the bill is enacted.

Contingent funds are different because Congress has taken the initiative in proposing the additional spending. In this case, Congress writes two legal statements into the bill. One statement declares that the Congress requests the funding to be eligible for the emergency designation. However, the funds are not available for obligation based on the request from the Congress. A second statement is written into the legislation that requires the President to make the funds an emergency before they are available to the DoD. Then, after the bill is enacted, the funding is designated contingent emergency. The funds are not available for obligation until the President requests the funds for emergency use. After the President requests the funds, the funding status changes from “contingent emergency” to “emergency” and they are available for obligation.

The above process is a method to determine who initiated supplemental spending. This topic is explored in this research. However, it will become clear that the President does not always accept the request from Congress.

Next, rescissions are derived from public law and they are used to offset spending that would otherwise cause discretionary spending limits to be surpassed. Rescissions can be used as historical fact because once the public law is enacted, the rescission goes into effect. The emergency designation and the non-emergency designation also represent historical fact. Those two types of funding go into effect immediately when the bill is enacted for the reasons discussed above. This is not true for funding that has been designated contingent emergency. Therefore, funding in public laws does not represent actual historical events accurately, but they do indicate intent. A look at the CBO data will clarify actual historic events. The data from CBO are similar to a financial workbook because the CBO documents actual expenditures and how they are categorized.

	FISCAL YEAR (Budget Authority in Millions of Dollars)				
	96	97	98	99	00
CRB Defense Function 050 ⁱ	264,700	265,583	268,200	None	288,812
House Version ^g				270,500	
Senate Version ^h				270,500	
Discretionary Defense Limit ^k				271,500	
Defense Regular Appropriation, Net ^j	264,423	264,662	267,989	270,390	286,540
Total Supplemental ^a	4,512	8,897	6,277	13,367	17,422
Total Rescissions ^a	-3,844	-7,980	-2,726	-2,019	-470
Net, Total Supplemental ^a	668	917	3,551	11,348	16,952
Defense Supplemental ^b	1,037	1,927	2,830	9,081	9,144
Defense Rescissions ^b	-2,070	-1,928	0	-31	-322
Net, Defense Supplemental ^b	-1,033	-1	2,830	9,050	8,822
Total, Defense Emergency ^c	982	2,077	2,834	16,845	f
Regular, Defense Emergency	0	231	0	7,796	f
Supplemental, Defense Emergency	982	1,846	2,834	9,049	8,834 ^d
Total Number of Defense Emergency Accounts ^c	11	15	25	95	f
Number of Regular Defense Emergency Accounts ^c	0	10	0	35	f
Number of Supplemental Defense Emergency Accounts ^c	11	5	25	60	f
Total Incremental Costs ^e	3,272	3,076	3,602	5,982	4,482

Notes:

a Source: [Ref.4:p. 25]

b Source: [Ref. 4:pp. 14-16,26]

c Source: [Ref. 6:p. 3,10-11] (unless indicated otherwise)

d Source: [Ref.4:p. 26]

e Source: [Ref. 23:pp. 15-16]

f Data not available. Source does not include FY00 data.

g Source: [Ref. 26]

h Source: [Ref. 27]

i Source: [CRB FY96-98, 00: Conference Reports]

j Source: [Ref. 9:pp. 25-26]

k Source: [Ref. 62]

Table 3.3. Summary of Fiscal Information from FY96 through FY00. [Refs. 4, 6, 9, 23, 26, 27]

Budget Authority (in millions of current year dollars)							
Fiscal Year	DERF	KEY	OCOTF	KEY	OHDACA	KEY	Public Law No.
96	0	NA	0	NA	0	NA	note a
97	0	NA	1,140	R/N/L	49	R/N/L	104-208
97	0	NA	1,430	S/E/L	26	S/N/L	105-18
NET, 97	0		2,570		75		
98	0	NA	1,884	R/N/L	47	R/N/L	105-56
98	0	NA	1,814	S/E/A	37	S/C/L	105-174
NET, 98	0		3,698		84		
99	0	NA	439	R/N/A	50	R/N/L	105-262
99	0	NA	1,859	S/E/A	0	NA	105-277
99	0	NA	5,007	S/E/A	38	S/E/L	106-31
NET, 99	0		7,305		88		
00	0	NA	1,723	R/N/A	56	R/N/L	106-79
00	0	NA	2,050	S/E/A	0	NA	106-246
00	0	NA	1,100	S/C/A	0	NA	106-259
NET, 00	0		4,873		56		

Note a: DERF was the only contingency account that existed at the time.

KEY

R	Regular Appropriation
S	Supplemental Appropriation
E	Emergency Designation
N	No Emergency Designation
C	Contingent Emergency Designation.
A	Available Until Expended
L	Limited Time Availability
NA	Not Applicable / No Funds Provided

Table 3.4. Contingency Account Funding Profile From FY96 Through FY00. [Refs. 28-38]

Table 3.3 summaries the dollar amounts by fiscal year in the Concurrent Resolution on the Budget (CRB), net defense appropriation (by budget function 050), supplemental, supplemental rescissions, and incremental costs. The CRB data were taken from the concurrent resolution on the budget if available. For instance, a CRB is available for each year except 1999. In that case, the house and senate versions of the CRBs were provided to show a possible outcome. However, the discretionary defense spending limit is provided in this case to show the statutory limiting requirement. While the CRB is not legally binding, it does show the intent of Congress in the budgeting process and it is required to be at or below the statutory limit. Information about the supplemental was obtained from CBO. Incremental costs were provided from the Congressional Research Service (CRS). The DoD is required to keep track of the incremental costs and they are tabulated by fiscal year. There is one cautionary note

about Table 3.3 for FY99. The data provided from CBO are based on supplemental appropriations based on its scorekeeping method. The defense supplemental amount of \$9,081 million for FY99 should be used with caution. CBO does not consider the emergency portion of PL 104-277, the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, a supplemental. Therefore, that amount of \$7,796 million is seen as a regular, emergency amount for FY99 in Table 3.3. The actual Defense Appropriations Act for FY99, PL 105-262, did not contain emergency nor contingent emergency spending.

Furthermore, Table 3.3 indicates the amounts of total emergency funding, defense emergency funding, and the number of defense accounts. The number of defense accounts and the amounts in those accounts are further divided into regular appropriation or supplemental appropriation. Emergency data are collected from CBO reports and are actual historical data. The CBO report had only begun to collect data for FY00. The incomplete data are discarded, as the numbers do not add any value for analysis in this study. However, note that there was \$1,881 million designated contingent emergency in ten defense supplemental accounts and most of it was for military pay and retirement. [Ref. 6:pp. 2, 8, 10]

Table 3.4 documents requests for the various contingency accounts. The data tabulated for contingency accounts come from a compilation of data from the appropriation acts. The three identified contingency accounts are DERF, OCOTF, and OHDACA. DERF was the only contingency account before FY97. No amounts were added to DERF during FY96 through FY00. OCOTF and OHDACA were created in 1997 and have been funded every year through FY00. They have both received funding in regular and supplemental appropriations. It also indicates that the regular accounts do not use the emergency designation, but that the supplemental accounts do. Also, the funding of these accounts is usually available until expended or beyond the fiscal year they are programmed for.

The emergency designation was an interest to Congress during this period of study. Appendix A provides excerpts from the CRBs for each year. Each year, one or both chambers attempted to address the improper use of the emergency designation in the

budgeting process. The findings are that Congress and the President misuse the emergency designation and that a budgeting means for emergencies should be defined. The findings of the Senate state that the annual emergency spending was about \$5.8 billion. By FY2000, the Sense in the Senate was more specific about the emergency designation. It provided guidance, criteria and steps of the process in the CRB. There was no CRB for FY99. The House and Senate were unable to come to an agreeable solution in conference even though each chamber did have their own version of the CRB.

B. FISCAL YEAR 1996

1. Background

There were two supplemental appropriations for FY96 and both were passed in 1996. The first supplemental PL 104-134 was enacted on April 26 and the second, PL 104-208 was enacted on September 30, five months later. PL 104-134 was passed as a rider on the FY95 Omnibus Appropriations Act for five regular appropriations that had been the result of a budget battle. This supplemental passed in the middle of the third fiscal quarter.

2. Defense Overview for the Year

Two major events affected most of the supplemental spending. First, missions to Bosnia were expanding. In total about 17,000 Armed Forces personnel were in Bosnia in support of the NATO Implementation Force (IFOR) that was to enforce the Bosnian Peace agreement. [Ref. 2:pp 26-28] Furthermore, it was intended that all forces would be withdrawn by the end of CY96. That did not happen and a force of about 8,500 remained for the follow-on NATO Stabilization Force (SFOR) to continue a peacekeeping role. The second major event was the terrorist attack against the Armed Forces on June 25, 1996 at the Khobar Towers in Saudi Arabia.

Other missions and operations were ongoing during CY96 also. Missions to support Operations Northern and Southern Watch continued in Southwest Asia. Smaller operations occurred in Haiti, Liberia, the Central African Republic, Rwanda and Zaire. Most missions were to protect embassies or evacuate private citizens in countries that were unstable. The missions to Rwanda and Zaire were humanitarian in nature. [Ref. 2:p 27]

3. Defense Supplementals Described

Table 3.2 describes two characteristics of the supplementals in FY96. The first characteristic is the period of time it took for the bills to pass. PL 104-134 passed within 2 months and PL 104-208 passed within 4 months; however, the latter was part of the regular omnibus appropriation package for FY97. While the supplemental in PL104-208 was for FY96, most of the bill provided regular FY97 appropriations for departments such as Defense, State, Commerce, and Justice.

Second, the amount of the combined supplemental was just over \$1 billion in new budget authority, but it was completely offset. PL 104-134 provided funding to MILPERS, O&M, Procurement, and RDTE to support operations in Bosnia at a total of \$820 million. [Ref. 40:pp. 553-554] \$991 million had been approved to be reprogrammed to cover the initial costs of Bosnia and now \$820 million was being provided to reimburse the raided accounts.

RDTE received \$50 million to provide for additional research for Sematech semiconductor consortium. As indicated by the FY96 DoD regular appropriation, Sematech was appropriated \$39 million. This program was initiated in prior years to maintain the United States technical ability to provide integrated circuits and lithography for support of many defense programs. Computational modeling and simulation for weapons programs is one such program. [Ref. 48] It is not apparent that any funds had been specifically authorized for the program. However, an authorization for FY96 RDTE, Defense-wide was \$9,693 million, while the appropriation was about \$282 million short at \$9,411 million. Third, about \$44.9 million in additional funding went to the B-52H program. The program had been appropriated \$21 million for air-to-ground munitions integration. Due to debates about the B-2 program, the authorization specified that no funds would be obligated for reducing the size of the strategic B-52 fleet. \$37.5 million went into MILCON to fund NATO infrastructure. The remaining \$10 million went to RDTE, Navy for countermining warfare studies. All of the new budget authority was offset with rescissions with a net offset of about \$70 million in savings.

PL 104-208 provided \$123 million in funding for the MILPERS, O&M, and procurement accounts. All of the supplemental went into anti-terrorism, counter-

terrorism, and security enhancements. An equal amount of rescissions was provided to offset all the costs. After the attack on the Khobar Towers, additional funds were necessary to increase military posture to protect against terrorism. The Secretary of Defense addressed the Senate Armed Services Committee concerning the bombing. While the commanders were trying to do their job, it was difficult to know what to plan for and they had to plan for many contingencies due to inadequate intelligence. Furthermore, he stated, “to deal with this level of threat will be complex, expensive, and take many months to implement.” [Ref. 39] Of the approximately \$1.1 billion to better prepare for terrorism, about \$353 million would be available for use until the end of FY97. [Ref. 41:pp 769-772] Of the \$353 million, \$123 million was in the supplemental for FY96 that was enacted in the FY97 Omnibus.

4. Emergency Funding

Tables 3.2 and 3.3 provide emergency funding information. Table 3.3 indicates all emergency spending in FY96 was funded by the two supplementals with 11 accounts used to provide the funding.

Table 3.2 shows that 89%, \$858 million, of the first supplemental was designated an emergency and the remaining amount had no emergency status attached to it. The second supplemental of FY 96 was completely designated an emergency. The Congress did not provide contingent funding to either of the supplementals.

In PL 104-134, all of the emergency designated funds went into a NATO resource pool. Most of the funds paid for NATO operations in Bosnia. Air operations in Bosnia began in 1993 in support of a NATO's enforcement of the “U.N. ban of unauthorized military flights over Bosnia-Herzegovina.” NATO air operations continued throughout 1994 and 1995. By December of 1995, U.S. ground troops were going to Bosnia as an enabling force to initiate the NATO Implementation Force (IFOR) in 1996. In 1996, the number of military personnel would swell in excess of 20,000 in support of operations in the former Yugoslavian country. [Ref. 2:p. 24-26]

The remaining emergency funds of PL 104-134 paid for supporting the NATO Security Investment Program (NSIP). The U.S. fair-share contribution to the NSIP was already at the approved limit for the FY96 program. However, as the Undersecretary of

Defense, Comptroller testified, the “additional funds are essential to support projects in Bosnia such as repair of railroads, repair and replacement of bridges, and repair and maintenance of seaports.” [Ref. 51]

All of the funds in PL 104-208 were designated an emergency. The funds were necessary for an immediate response to the Khobar Tower terrorist attacks and to improve the military preparedness to protect against such attacks again. As the Secretary of Defense stated, “whatever we do, and however much we invest in anti-terrorist activities, we cannot eliminate the risk . . . we have to take actions that will reduce risks in the future.” [Ref. 39] Actions to improve force protection were already being implemented, but different commanders were executing different programs to protect against terrorist activities. These changes were being phased in because of the bombing of a Saudi National Guard facility in Riyadh in November 1995.

5. Incremental Defense Costs

Table 3.3 indicates the incremental costs of \$3,272 million for Defense in FY96. These costs were due to on-going operations in Southwest Asia (Iraq) and Former Yugoslavia (Bosnia). \$665.2 million incremental costs were because of operations Provide Comfort and Southern Watch in Iraq. Of the \$2,520 million of incremental costs in Bosnia, \$2,231.7 million supported NATO IFOR and SFOR operations that started that year. The remaining \$288.3 million paid for smaller missions in Bosnia. [Ref. 23:pp. 15-16]

The DoD was authorized \$647.1 million to be paid from regular appropriations to compensate for the incremental MILPERS and O&M costs associated with Operations Provide Comfort and Southern Watch. [Ref. 52:pp. 242-243] The two operations were fully appropriated at \$647.1 million and this was in agreement with the authorization. [Ref. 53:p. 50]

No budgeting plan was found for the Former Yugoslavian Operations category.

C. FISCAL YEAR 1997

1. Background

There was one supplemental in FY96. PL 105-18 was introduced and enacted on June 12, 1997, in the third fiscal quarter. However, while House Resolution 1871 (PL

105-18) was fast to pass, the first version of the bill, House Resolution 1461 (H.R. 1461), was vetoed just three days earlier. H.R. 1461 was introduced on April 29, 1997 in response to spring floods in the Great Plains and the Upper Midwest. A Defense supplemental was also needed to cover costs from continued operations in Bosnia and Southwest Asia. On June 9, 1996, President Clinton vetoed the measure claiming Republicans were playing politics with money that was needed for disaster relief. Three days later, H.R. 1871 was presented to the President with most of the gimmicks removed. [Ref. 73:pp. 9-84, 9-90]

2. Defense Overview for the Year

Two ongoing events were the major events for the DoD in FY97. The NATO SFOR was established in Bosnia to support peacekeeping efforts. The SFOR was to remain in place until withdrawn in the summer of 1998. [Ref. 2:p. 28] Missions in Southwest Asia continued with Operations Provide Comfort and Southern Watch. In addition to the large-scale operations, smaller missions took place in Albania, Congo, Sierra Leone, and Cambodia in support of evacuation missions of private U.S. citizens as well as support for security at various embassies. [Ref. 2:p. 28]

3. Defense Supplemental Described

Table 3.2 describes the Defense portion of the FY97 supplemental. The vetoed bill took two months to process, but the new bill was processed within a single day. The supplemental contained \$1,930 million in new budget authority for the DoD. An equal amount of rescissions were issued for a zero net change in the defense budget.

The additional funding was for seven programs. First, \$1,774 million, 92%, of the supplemental was to pay for operations in Bosnia and Southwest Asia. Of that amount, \$1,430 million in new budget authority was derived from the FY97 Supplemental OCOTF account. The remaining new budget authority came from savings from various Bosnia and Southwest Asia operation reductions. [Ref. 42:p. 72] Second, the Reserve Mobilization Income Insurance Fund, a revolving management fund, received \$72 million to keep the account solvent. The account had been started in the FY96 Defense Authorization to “mitigate economic losses for Reservists when involuntarily called to active duty,” and the “law requires a ‘special’ appropriation to cover any unfunded liability” [Ref. 52:p. 34] The program was required to be financed

by membership premiums. However, program flaws from the beginning and an insufficient enrollment period resulted in serious under-funding. [Ref. 55] The third program that received supplemental funds was the OHDACA at \$25.8 million. The money was to pay a grant to the American Red Cross in support of armed forces emergency services. In the regular budget process, the OHDACA had been authorized \$54.5 million, but the FY97 Defense Appropriation provided for \$49 million.

The remaining four programs that received supplemental funding were the Defense Health Program, OPLAN 34A/35 P.O.W. Payments program, Defense-Wide force protection program, and Navy & Marine Corps Family Housing. The largest single amount was \$21 million for the Defense Health Program, with a cumulative amount of \$57.5 million for all four remaining programs.

4. Emergency Funding

Tables 3.2 and 3.3 provide emergency funding information. Table 3.2 indicates that 96%, \$1,846 million, of the new budget authority was designated an emergency. Congress did not designate any contingent emergency spending and therefore, the remaining amount of supplemental funds had no emergency designation attached to them.

Table 3.3 indicates that there were five accounts in the supplemental with the emergency designation with about \$1,846 million according to CBO. However, there were ten accounts in the regular appropriation with the emergency designation with a value of \$231 million. The emergency funding in the regular appropriation represents 11% of the total emergency designated funds for the fiscal year.

The OCOTF and OHDACA were introduced by the government for FY97. As Table 3.4 indicates, both received funding in the regular defense appropriation and were not emergency designated. It was the first time defense was attempting to adequately fund for incremental costs while remaining within the pre-arranged discretionary budget limits. However, Table 3.4 also indicates that the FY97 supplemental provided additional funds for these two accounts. The OCOTF supplemental funds, \$1,430 million, were designated emergency and accounted for about 74% of the defense supplemental.

Of the seven programs, two were designated emergencies. The largest emergency designated funds went to the OCOTF. The second largest emergency supplemental appropriation was the Reserve Mobilization Income Insurance Fund which was also the second largest supplemental amount in the entire bill.

The remaining five programs did not have any emergency designation associated with them. Those accounts were the OHDACA, OPLAN 34A/35 P.O.W. Payments, Defense-Wide counter terrorism, Defense Health, and Family Housing. The total sum of these non-emergency funds was \$83.3 million or 4% of the supplemental. Not only were these amounts offset with rescissions, but the emergency designated amounts were completely offset as well.

Within the regular appropriation, \$230.7 million were designated emergency in ten accounts. Those funds were appropriated for anti-terrorism, counter-terrorism, and security enhancement activities in the DoD. This was the second installment of emergency funds in response to the Khobar Towers. The first installment was in the FY96 Defense Supplemental that was also contained within the same bill.

5. Incremental Defense Costs

Table 3.3 indicates defense incremental costs were \$3,076 million. Operations in Iraq totaled \$793.1 million and operations in Bosnia were \$2,282.5 million. The new missions in Iraq cost the DoD \$102.7 million. The remainder of the funding for Iraq went to routine incremental costs to support Operations Provide Comfort and Southern Watch. NATO SFOR in Bosnia cost the DoD \$2,087.5 million for the on-going NATO ground presence in Bosnia that had started a year earlier. [Ref. 23:pp. 15-16]

There was no discussion in the FY97 Defense Authorization concerning funding for the OCOTF account nor was there discussion on how operations in Southwest Asia or Bosnia would be funded. More interestingly, there was no specific line item authorizing dollar amounts for the OCOTF account.

D. FISCAL YEAR 1998

1. Background

There was one supplemental in FY98. PL105-174 was enacted on May 1, 1998 in the middle of the third fiscal quarter. Of the discretionary amounts in the supplemental,

about half was for disaster relief due to winter and spring storms in the United States. The other half was for defense.

2. Defense Overview for the Year

Similar to FY97, the same two major events were on-going in Southwest Asia and in Bosnia. Operations Provide Comfort and Southern Watch continued as before. The NATO SFOR continued to operate in Bosnia even though President Clinton's time limit of June 1998 expired. Also, smaller operations such as evacuation and embassy security support continued. Countries affected were Guinea-Bissau, Kenya, Tanzania, Liberia, Afghanistan, and Sudan. [Ref. 2:p. 29]

3. Defense Supplemental Described

Table 3.2 indicates that PL105-174 was enacted within two months of its introduction in the House. It contained \$2,860 million in supplemental funding with no rescissions.

This year, the supplemental was more diversified compared to the last two years. First, the total amount of funds that went into contingency operations was \$2,040 million that represented 71.3% of the supplemental. These funds went into the OCOTF account and all of the MILPERS accounts and they were to be used for on-going contingency operations in Southwest Asia and Bosnia. In the regular budgeting process, the OCOTF account was authorized \$1,253.9 million. [Ref. 56:p. 44] Then, \$1,884.0 million was appropriated with \$213.6 million from the MILPERS and \$416.5 million from the individual services O&M accounts. [Ref. 57:pp. 55 and 87] When those amounts are subtracted from the appropriation, the balance matches the authorization at \$1,253.9 million. Those funds were to pay for operations in Bosnia and Southwest Asia. The cost of Operation Southern Watch in Iraq was growing quickly. Also, operations in Bosnia were funded only through June 30, 1998 as published at the end of the FY98 Defense Appropriation. [Ref. 36:pp. 48-49]. Additional funds would be necessary to continue operations past the deadline in Bosnia. President Clinton first hinted and then declared that U.S. Armed Forces would remain in Bosnia for peacekeeping efforts.

Second, another 8.1%, \$231 million, of the supplemental paid for damages sustained in natural disasters. The natural disasters included Typhoon Paka that hit Guam, the El Nino storms on the West Coast, and the tornadoes that hit Fort Stewart,

Georgia. [Ref. 43:pp. 49-52] Several of the O&M accounts as well as working capital funds and the defense health program were affected by the natural disaster relief.

Third, \$273 million or 9.5% was for procuring eight F/A-18s for the Marine Corps. In the routine budgeting process, the FY98 Defense Authorization included \$2.1 billion (adjusted) for procurement of twenty Navy F/A-18s. [Ref. 56:p. 523] The FY98 Defense Appropriation also contained \$2.1 billion for twenty F/A-18s. [Ref. 73:p. 9-23]

The remaining five projects represent 11% of the supplemental. First, the RDTE funding (6.5%) was for theater missile defense programs. In the regular budgeting process, missile defense was authorized \$4.08 billion and appropriated \$4.18 billion. [Ref. 73:p. 8-6] The Reserve Mobilization Income Insurance Fund (1.6%) required additional funds to pay for current and future claims while the program was terminated due to poor performance. Third, OHDACA (1.3%) required additional funds to pay the Red Cross for Armed Forces emergency services similar to the FY97 supplemental. Next, the International Trust Fund (1.0%) was to de-mine in Bosnian-Herzegovina and pay assistance to victims of the mines. Finally, MILCON and Family Housing programs (<1%) were to pay for damages sustained from natural disasters.

4. Emergency Funding

Table 3.2 indicates that \$2,163 million or 76% of the supplemental was designated emergency. The remaining 24% of the supplemental was designated contingent emergency. There was no non-emergency funding in this supplemental. Table 3.3 indicates that all of the defense emergency spending for FY98 was contained within the supplemental and it affected 25 accounts.

As Table 3.4 indicates, the two contingent defense accounts were funded in the regular appropriation without using the emergency designation and were to fund contingent operations in Southwest Asia and Bosnia. However, the OCOTF supplemental was designated an emergency and it amounted to \$1,814 million. The OHDACA was designated a contingent emergency by Congress asking for \$37 million more. The purpose of this funding was discussed in the previous section.

Of the contingency operations, all of it was designated an emergency. That included the \$1,814 million in OCOTF and the \$226 million from MILPERS accounts for a total of \$2,040 million or 71% of the supplemental. [Ref. 43:p. 48]

\$231 million provided natural disaster relief and all but one of the accounts were designated an emergency. The one remaining account, O&M Defense-Wide, was designated contingent emergency and it represented 54% of the Defense disaster relief package. That 54% was a result of the DoD providing an updated report on disaster spending in response to El Nino damage in California and tornado damage at Fort Stewart, Georgia. Of the total supplemental, contingent emergency funds for disaster relief was 4.4%. [Ref. 43:p. 48]

Most of the remaining supplemental accounts were designated contingent emergency. Those accounts were Navy Aircraft Procurement, Defense-Wide RDTE, Reserve Mobilization Income Insurance Fund, OHDACA, International Trust Fund, and MILCON & Family Housing. Some of the MILCON & Family Housing accounts were designated emergency because of Typhoon Paka, but the amount was less than 1%. In all, 24% of the supplemental was designated contingent emergency.

The FY98 Defense Appropriation did not contain emergency designated funds.

5. Incremental Defense Costs

Table 3.3 indicates that incremental costs to the DoD were \$3,602 million. \$1,639 million of the incremental costs were for operations in Southwest Asia and \$1,963 million were for Bosnia. [Ref. 23:pp. 15-16] The incremental costs for Operation Southern Watch more than doubled from FY97 to FY98 to a total cost of \$1,497 million due to an increased buildup of forces in response to Iraq's refusal to comply with arms inspections.

6. Other Issues

The 1997 Quadrennial Defense Review highlighted two major weapons programs pertinent to this supplemental. First, while the Navy was waiting for its version of a new, futuristic combat aircraft, it required a better variant of the F/A-18 fighter/bomber. The anticipated need was 548 aircraft with an option to buy 237 others. Second, ballistic missile defense emphasized that the program had been under-funded in the past. Now,

the DoD was asking to double the funds over the 1998 – 2003 period. The review also concluded that the additional funding was still not enough and that there were significant schedule and technical risks. [Ref. 73:pp. 8-20, 8-21]

E. FISCAL YEAR 1999

1. Background

There were two supplemental spending bills in FY99. Interestingly, the first supplemental could not wait to be enacted past the regular appropriation bill. PL 105-277 is the Omnibus Regular Appropriation bill for FY99 and is one of two emergency supplementals. CBO scores the emergency funding as part of the “regular appropriations because it was packaged along with eight regular appropriation bills” [Ref. 5:p. 8] Furthermore, in the FY96 to FY00 period, this is the only appropriation that CBO classifies as a regular appropriation, but most of it contains emergency intent. [Ref. 6:p. 12] The emergency funding was nearly \$20.8 billion for the entire government with the Defense portion at \$8.3 billion. For this paper, it is considered supplemental spending, especially because the DoD appropriation bill had passed just four days earlier without any emergency designated funding.

Seven months later, the second supplemental for FY99, PL 106-31, was enacted. It contained nearly \$10.9 billion in emergency “intent” funding.

This year was special compared to most budget years because the federal budget was in surplus. By the time the omnibus was to be enacted, “the surplus having surged to about \$70 billion for fiscal 1998, the pressure was on to tap it for much more emergency spending than had previously been expected.” [Ref. 74:p. 2-117]

2. Defense Overview for the Year

Major operations included the on-going NATO mission in Bosnia and operations in Southwest Asia. The NATO SFOR mission to Bosnia had gone past the previous year’s self-imposed deadline without any immediate foreseeable withdrawal from the region. A new major addition to operations was the use of U.S. Armed Forces in another region of the former Yugoslavia. NATO had taken a new mission in Kosovo to help the plight of the ethnic Albanians in March of 1999 starting with air strikes. By the end of 1999, there would be about 8,500 U.S. military personnel, including ground troops, in the region in support of the NATO Kosovo Security Force (KFOR). [Ref. 2:p. 30-31] Also,

by October of 1999, the U.S. military would be providing aid to the U.N. multi-national operation to commence a U.N. peacekeeping role. It was expected that the U.S. Armed Forces would be withdrawn after the U.N. was set up and the situation had been stabilized.

3. Defense Emergency Supplemental Described for PL105-277

To begin, Table 3.3 shows the total defense supplemental at \$9,081 million and that information comes from CBO. The amount provided in Table 3.2 shows values for both supplemental amounts in FY99. The amount of PL 105-277 on Table 3.2 is not included in the FY99 value of Table 3.3. I suggest that caution should be used in classifying PL105-277 as either a supplemental or a regular appropriation. Again, for this study, it is considered supplemental spending even though CBO considers it regular spending. This is further supported by the CRS designating the defense portion of the emergency spending as a supplemental. [Ref. 9:p. 26]

Unlike FY96 when there were two supplemental appropriations, there were at least some non-emergency designated funds. This fiscal year was different and will be easier to discuss in one section as most supplemental spending is an emergency.

Table 3.2 indicates that PL105-277 passed within three months in the first fiscal quarter of FY99. There were eleven general programs in this emergency-spending package. From highest to lowest funding amounts, they are the following: OCOTF, Readiness, Year 2000 computer infrastructure, ballistic missile defense, former soviet aid to purchase uranium and plutonium, counter-terrorism, facilities repair due to natural disaster, anti-terrorism focused on weapons of mass destruction preparedness, MILCON due to natural disaster, Defense Health, and counter-drug operations.

All \$8,323 million of the first Defense supplemental was designated with emergency intent except for \$2 million. Next, Table 3.2 indicates that 25%, \$2,083 million, of the supplemental was emergency designated. It went to costs for Bosnia and natural disaster damage both domestically as well as internationally. 75% of the funding was designated as contingent emergency and it covered a variety of needs. Due to rounding, the Table indicates 0% non-emergency funding, but this was not true. There was \$2 million in funding for the Fisher House. This was the lowest funded amount in

the entire emergency bill and it had not been included in the FY99 Defense Appropriation except for stating that funds may be derived from the Fisher House Trust Fund. [Ref. 37:p. 40]

The highest funded account in this supplemental spending was OCOTF and it faced a complicated funding scenario. During the appropriation process, there was significant concern at the Pentagon that if the funding for operations in Bosnia were not approved by appropriators, then spending would be reduced in the readiness categories of training, maintenance, and modernization. [Ref. 74:p. 2-22] The FY99 Defense Authorization Act included \$747 million in regular authorization for Southwest Asia and then provided another \$1,512 million for OCOTF specifically for peacekeeping missions in Bosnia. [Ref. 63:pp. 44 and 197] An additional \$346 million was for MILPERS to cover peacekeeping operations in Bosnia. The regular defense appropriation (PL 105-262) called for \$439 million in the OCOTF that was for operations in Southwest Asia. [Ref. 37:p. 6] Then, four days later in the Omnibus and Emergency Appropriation bill, funding for the NATO missions in Bosnia was provided. That total supplemental amount was for \$1,859 that was all designated an emergency. In all, the OCOTF had been appropriated \$2,298 million in five days.

The second largest package was for increasing defense readiness. The regular appropriation had received additional funds to improve readiness, but when conference members learned that President Clinton was going to ask for additional readiness dollars in the supplemental, conference members reduced the regular appropriation readiness funding by \$400 million. [Ref. 74:p. 2-28] A hearing with the Joint Chiefs of Staff recommended additional funds for readiness, otherwise the military could risk becoming ineffective. [Ref. 74:p. 2-28] Subsequently, four MILPERS and ten O&M accounts received funding for a total amount of \$1,301 million. All of this funding was designated contingent emergency.

Third, the DoD received \$1,100 million in contingent emergency money for the Year 2000 (Y2K) for information technology (IT) and security improvements related to the year 2000 computer coding issue. Not only did this include funding for updating IT systems, but also critical systems were to be backed up with contingency plans. [Ref. 64]

This was another program that drained funds from long-term readiness because in a “flat-budget” environment, funds were taken away from modernization. [Ref. 65]

The remaining programs were identified as programs that needed additional funding as well. Many of the programs had been under-funded in prior years. For instance, the Ballistic Missile Defense program was identified in the Quadrennial Defense Review as severely under-funded. This fiscal year, the program was given an additional \$1,000 million in contingent emergency money. The program was authorized \$3,537 million. [Ref. 63:p. 562] The regular appropriation contained \$3,450 million. [Ref. 74:p. 2-31]

There were no rescissions provided in this supplemental.

4. Defense Emergency Supplemental Described for PL 106-31

PL 106-31 passed in just over two months midway through the third fiscal quarter. It contained \$10,887 million of emergency intent funding. [Ref. 33] Table 3.2 shows that the funding was broken into 37% and 63% for emergency designated and contingent emergency designated categories, respectively. There was \$31 million in non-emergency funding specifically for disaster relief. There were five emergency funding packages in this supplemental and they are the following: contingency operations, readiness, MILCON for military infrastructure in Bosnia, Central American disaster assistance, and MILCON for disaster relief.

The first and largest funding package was for two contingency missions, one in Southwest Asia and the other in Kosovo. Funding for the NATO KFOR humanitarian operation had not been provided before. Supplemental emergency funding for the two geographic regions totaled \$6,008 million in a myriad of accounts for MILPERS, O&M, and procurement. Also, a new account called the Operational Rapid Response Transfer Fund was started and appropriated \$300 million in contingent emergency funding. [Ref. 45:p. 75] Within the emergency supplemental amount, \$453 million was to go for past operations in Southwest Asia and that included funds for replacing missiles used in the attacks. Furthermore, approximately \$5,000 million was to go into NATO air strikes and humanitarian operations in Kosovo. Finally, another \$550 million was to go into

procurement of missiles and bombs, some of which might be used in Kosovo. [Ref. 75:p. 2-159]

The OCOTF contained \$5,007 million of the \$6,008 million. Of the \$5,007 million, \$3,907 million (78%) was designated emergency and was to provide for O&M in Southwest Asia and Kosovo. The remaining \$1,100 million was designated contingent emergency. President Clinton's request had funded only the air war in Kosovo through the end of the fiscal year. Congress determined that those funds would be insufficient if ground troops were sent into Kosovo and provided the contingent emergency amount. [Ref. 75:p. 2-159]

The second largest funding package was for defense readiness at \$4,188 million and it was categorized as contingent emergency. The types of programs in this package were for personnel programs, spare parts, depot maintenance, base operations, readiness training/OPTempo and recruiting.

The third largest funding package was \$475 million in contingent emergency funding. This funding provided for developing military infrastructure in Kosovo such as construction that would support mission, readiness, and force protection in the Balkans. [Ref. 45:p. 81] There was debate in Congress as to whether this funding was necessary. Originally, \$1.1 billion had been proposed in the House. Later, after an initiative to remove the funding, it was decided that \$475 million could remain as long as the Pentagon could select the most critical items. [Ref. 75:p. 2-158]

The remaining two packages were for disaster relief from Hurricanes Georges and Mitch. The first one was for Central America where the hurricane had occurred seven months earlier. The funds were split in what was designated an emergency and contingent emergency. The second package was for military bases that required disaster relief. The funding was designated non-emergency.

There was only \$31 million in rescissions. That accounts for less than 0.3% in the new budget authority, but it offset the entire non-emergency portion of the defense supplemental. All rescissions were in the MILCON accounts for 1999. Of the \$31 million, \$25 million was in savings from foreign currency fluctuations and \$6 million from the Base Realignment and Closure Account (BRAC), Part IV. [Ref. 75:p. 2-165]

5. Summary of Emergency Funding in FY99

The amount of total defense-function emergency appropriation was \$19,209 million. Of that amount, PL 105-277 was \$8,321 million and PL 106-31 was \$10,887 million. As Table 3.3 shows, total defense emergency spending for FY99 was \$16,845 million or 87% of the combined supplemental appropriation. Of the \$16,845 million of emergency spending, \$7,796 million was considered to be in the regular appropriation process, even though it has been considered a supplemental amount for this study. About 6% of the funding in PL 105-277 remained designated as contingent emergency. The second supplemental of FY99 provided \$9,049 million in emergency spending. About 17% of the funding in PL 106-31 remained designated as contingent emergency. There was \$19 million in rescissions.

6. Incremental Defense Costs

Incremental costs for the FY99 were \$5,982 million as indicated in Table 3.3. For the year, operations in Southwest Asia and Bosnia utilized \$1,261 million and \$1,587 million, respectively. New operations commenced in Kosovo at a total incremental cost of \$3,132 million for the year. Finally, incremental costs for East Timor totaled \$1.5 million. However, there was no appropriation for the operation in East Timor this year.

F. FISCAL YEAR 2000

1. Background

There were two supplemental appropriations in FY00. PL 106-246 was enacted on July 13 at the beginning of the fourth fiscal quarter. It was introduced in the House as the Military Construction Appropriation Act for 2001 and then was amended in the Senate to include the majority of the defense supplemental for FY00. Less than a month later, PL 106-259, the Defense Appropriation Act for 2001 was enacted into law with additional supplemental funds for FY00. Overall, the federal government's budget was running a surplus and much of the additional appropriations this year were funded from that surplus.

2. Defense Overview for the Year

There were three major areas of U.S. Armed Forces involvement in FY00. On-going operations continued in Southwest Asia, Bosnia, and Kosovo.

Smaller operations were also executed. The first was in East Timor. The region had voted for independence and the U.N. committed to helping the region become an autonomous government. The U.S. military was to be present until the U.N. peacekeeping operation was established. [Ref. 2:p. 31] Second, a small contingency operation was established for Sierra Leone. The operation would provide logistics and evacuation support for the U.N. should peacekeeping break down. [Ref. 2:p. 32]

3. Defense Supplementals Described

Defense supplemental spending was different this year. Funding came later in the year in two separate supplemental spending packages attached to regular appropriations bills. As indicated in Table 3.2, the first supplemental, PL 106-246, was \$7,356 million and the second, PL 106-259, was \$1,779 million. PL 106-246 will be examined first.

PL 106-246 took just over 2 months to pass. Its main purpose was to be the FY01 MILCON Appropriations Act, but the bulk of the FY00 supplemental appropriation was attached. PL 106-246 contained supplemental funding for 20 categorized programs. The top four programs are the following: contingency operations, Defense-Wide Working Capital Fund, Defense Health Program, and support for deployed forces. These four programs represent \$5,535 or 75% of the of this supplemental. All of the remaining programs are under \$500 million and most are under \$200 million. Some of the remaining programs are a significant amount of money. In any other fiscal year, they would deserve a serious look. However, with the growing use of emergency funds, the top four programs should suffice to study the nature of the supplemental.

The largest funding was for contingency operations representing \$2,163 million or 29% of the supplemental. It provided \$2,050 million for the OCOTF, \$73 million for Air Force aircraft procurement, and \$40 million for Defense-Wide O&M. The OCOTF had been authorized \$1,880 million of which \$1,824 million was specific for operations in Bosnia. If additional funds would be necessary to cover incremental costs in the Federal Republic of Yugoslavia (inclusive of Kosovo), the FY00 Defense Authorization Act was specific to direct the President to request supplemental funds. [Ref. 66:pp. 47, 229-230] The FY00 Defense Appropriation Act funded \$1,773 million for operations in Southwest Asia and Bosnia. The amount took into consideration the early end of the air campaign. [Ref. 66:p. 157] Aircraft procurement for the Air Force included \$9,759

million in authorization. [Ref. 66:p. 561] However, the Air Force was appropriated \$8,229 million. [Ref. 67:p. 14] Next, the O&M Defense-Wide had been authorized \$11,497 million. [Ref. 66:p. 47] The regular appropriation was for \$11,489 million. [Ref. 67:p. 5] No rescissions were provided to offset these amounts.

The supplemental funding package for the Defense-Wide Working Capital Fund (WCF) was \$1,556 million. In the regular budgeting process, \$90 million was authorized. [Ref. 66:p. 679] \$90 million was appropriated in the regular appropriation. [Ref. 67:p. 252] No rescissions were provided to offset this supplemental.

The third largest supplemental funding package was for the Defense Health Program (DHP). \$616 million was enacted for TRICARE and another \$696 million for additional programs. The total amount for DHP was \$1,312 million. In the regular budgeting process, \$10,483 million had been authorized by the FY00 Defense Authorization Act. [Ref. 66:p. 47] The regular appropriation funded \$11,155 million. [Ref. 67:p. 252] No rescissions were provided to offset this supplemental.

The fourth supplemental funding of \$504 million was for support of deployed forces. This funding was for several unfunded requirements and affected many accounts. There were four accounts in O&M at \$96 million, three accounts for aircraft procurement at \$291 million with most going to the Air Force, two for classified procurement at \$54 million, and two for RDTE at \$63 million. No rescissions were provided to offset this supplemental.

In the remaining programs of PL 106-246, it should be noted that \$138 million went to defense activities to pay for immediate and follow-up activities of the defense portion of the fire at Cerro Grande. \$62 million went to fund operations in East Timor and Mozambique. \$19 million went to MILCON in response to storm damage.

The following accounts were not designated emergency: Navy MILCON to purchase land in Florida which was offset with rescissions; The Army's Biometrics Assurance Program which was offset with rescissions; The DoD mission to provide protection at the 2002 Winter Olympics in Salt Lake City which was offset with rescissions; The DoD mission Walking Shield which was offset with rescissions; Procurement upgrades for the Army's M1 tank which was offset with rescissions; RDTE

for the Army for the continued development of the High Energy Tactical Laser which did not have any accompanying rescission statement. The total value of these non-emergency programs was \$219 million and they were completely offset by the total amount of rescissions at \$322 million.

The second supplemental of FY00 is PL 106-259. It took just over two months to pass. Its main purpose was to be the FY01 DoD Appropriations Act, however, some FY00 supplemental appropriation was attached. PL 106-259 contains supplemental funding for the following four programs: OCOTF, Readiness, Defense Health Program, and Recruiting & Retention. This is the second supplemental funding for the OCOTF, Defense Health Program, and Recruiting & Retention in this fiscal year.

The OCOTF received \$1,100 million. Interestingly, the same amount was rescinded from the FY01 Defense Appropriation Act. Readiness received \$529 million in supplemental funding. The Defense Health Programs received an additional \$100 million. The second supplemental contained no rescissions.

4. Emergency Funding

Table 3.2 indicates that the \$7,356 million of PL 104-246 was mostly of emergency intent. \$154 million was designated emergency, \$219 million was designated non-emergency, and \$6,983 million or 95% of the first supplemental was designated contingent emergency. The emergency designated funds were for the DoD portion of counter-drug operations. The non-emergency designated funds were discussed above. All of the remaining funds were designated contingent emergency and the big items will be discussed below. Furthermore, all \$1,779 million of the second supplemental, PL 106-259, was designated contingent emergency and will be discussed below.

The top five emergency funded packages, that also happen to be designated contingent emergency, are the following: contingency operations, the defense Working Capital Funds, the Defense Health Program, readiness, and support for deployed forces. Combined, they represent \$6,164 million or 67% of the total combined FY00 supplemental for defense.

Contingency operations received the highest amount of supplemental appropriation. As Table 3.4 indicates, the OCOTF was funded in the regular and

supplemental appropriations. Both FY00 supplementals provided contingent emergency funds for the OCOTF. The first supplemental of OCOTF money was to be used to offset incremental costs to Kosovo. The intent of the second supplemental amount of \$1,100 million in the OCOTF is unclear because I was unable to find information pertaining to its use. However, some of the budgeting tricks being used for the year included moving budget authority from the FY01 budget to the FY00 fiscal year via supplemental. [Ref. 68:p. 525] As stated above, the FY01 Defense Appropriation Act had \$1,100 million of its budget authority rescinded in OCOTF. This may be a loose connection. The additional funds were necessary though because without them, the full incremental costs of the overseas contingency operations would further detract from readiness.

The second funding package is for the defense working capital funds. The price for fuel went up during 1999 and 2000 and that caused insufficient funding to purchase fuel. \$1,556 in contingent emergency funding was enacted in the legislation.

The third funding package was for the Defense Health Program at a total \$1,412. That funding was split mostly down the middle between additional costs for TRICARE and then other programs. The first supplemental provided funds for unfunded requirements in TRICARE claims from 1998 through 2000. The second supplemental then provided an additional small amount for these purposes. The other half of the supplemental amounts for the Defense Health Program went to other unfunded requirements. All of these funds were to address the “critical shortfalls confronting the military health care system.” [Ref. 48:p. 287-288] There was a large concern about violations of the Anti-Deficiency Act and the GAO was directed to investigate the administration of those funds. [Ref. 47:p. 132] Half of this funding would remain available through the end of fiscal year 2002.

The fourth supplemental spending package for FY00, for readiness, contained \$529 million. That funding was to address the unfunded requirements for depot maintenance, real property maintenance, and readiness spare kits. The Secretary of Defense William Cohen testified that there was an “escalating criticality” for the supplemental because costs in Kosovo would begin to hurt readiness and damage the NATO mission. Furthermore, he addressed the need for transferring funds from the

Navy and Air Force to maintain the Army's scheduled training rotations. However, he suggested that without timely supplemental funding, major fourth quarter baseline operations would be cancelled. [Ref. 72]

The fifth contingent emergency supplemental spending package of FY00 was for support of deployed forces with \$504 million. Again, this was to support unfunded requirements and it was discussed above in section F.3 of this fiscal year.

The FY00 Defense Appropriation Act provided emergency funding. There was \$7,200 million in 11 designated contingent emergency accounts. All accounts were in the category of O&M and there was an equal amount of rescission. In fact, the shuffle was to keep the funding in the same projects and to include the contingent emergency status.

5. Incremental Defense Costs

The total incremental cost to defense for commitments to international peace and security was \$4,482 million. \$1,139 million, \$1,483 million, \$1,803 million, and \$57 million for operations in Southwest Asia, Bosnia, Kosovo, and East Timor respectively. No incremental cost data were provided for other operations in other regions of the world.

G. SUMMARY

The eight supplemental appropriations of fiscal years 1996 through 2000 have been presented in this chapter. The background and defense overview were intended to set the stage for the purpose of the supplemental. Next, the supplementals were described. Not all supplementals have emergency designation and for that reason, they are described first in a monetary sense to rank them. The dollar value may provide a level of importance to the supplemental spending. The emergency funding was outlined separately in some years. In other years, the emergency funding was discussed by talking about both supplementals together. The purpose of this was to make it possible to study the emergency designation for each fiscal year.

There is a sense that contingency operations were beginning to drive the budget by the scenario presented above. Also, the earlier years' operations and lean budget seem to affect readiness to the degree in which additional funds were required in the later years

of this study. Many of the supplemental requests that were made during this period include an emergency designation. It may also become apparent that more supplemental funds were designated contingent emergency.

IV. SUPPLEMENTAL ANALYSIS

A. INTRODUCTION

Defense supplementals have been used for many purposes from fiscal year 1996 through 2000. However, the purpose of a supplemental is to provide additional funding when the regular appropriated funds are insufficient and there is an urgent need. The OMB identified criteria for when a supplemental should be used. The criteria was described earlier in this paper, but it is re-emphasized here as the following:

- Existing law requires payments within the fiscal year (e.g., pensions and entitlements)
- An unforeseen emergency situation occurs (e.g., natural disaster requiring expenditures for the preservation of life or property)
- New legislation enacted after the submission of the annual budget requires additional funds within the fiscal year
- Increased workload is uncontrollable except by statutory change
- Liability accrues under the law and it is in the Government's interest to liquidate the liability as soon as possible (e.g., claims on which interest is payable)

Even though the OMB identified criteria in 1991, there was a “sense” about the emergency designation developing in Congress. The appendix outlines the “sense” of Congress as it developed from 1995 to 1999 by looking at the CRBs for those fiscal years. In 1995, Congress had a sense that using the emergency designation circumvented the discretionary budget caps. Both Congress and the President were responsible for this. However, there was no legal precedent for what defined an emergency. The OMB criteria were not binding. By the FY00 CRB, the sense of Congress defined what should be an emergency, but this also was not binding. [Ref. 61:pp. 19-20] It re-emphasized OMB’s criteria and it was the following:

- Necessary, essential, or vital (not merely useful or beneficial)
- Sudden, quickly coming into being, and not building up over time
- An urgent, pressing, and compelling need requiring immediate action
- Unforeseen, unpredictable, and unanticipated
- Not permanent, temporary in nature

Those guidelines established by the OMB and Congress were used to establish the evaluation criteria in this study. The characteristics were studied in each supplemental.

B. CRITERIA FOR EVALUATING A SUPPLEMENTAL

To determine if a supplemental was “good,” its characteristics must be evaluated. Characteristics that are included in a good supplemental are as follows:

- The supplemental was an emergency as defined below;
- There were offsets for non-emergency designated funds;
- Emergency designated funds should be offset to minimize deficit spending;
- The response to the need was quick;
- The supplemental amount remained below the spending cap;
- Past contingency operations were planned for and left out of the supplemental;
- Small contingent missions were not added to the supplemental;
- Pork barrel spending was negligible.

It will be determined if the supplementals for FY96 through FY00 met the true intent of an emergency. In order to determine this, criteria for evaluation must be established.

The first step is to determine if the supplemental amount was necessary. More importantly, the immediate needs of the DoD must be satisfied. This step has objective and subjective elements to it. Objectively, it can be determined if some law requires an obligation. Most commonly, this would take the form of an entitlement. Subjectively, it must be determined if an action was required. For instance, if no action were taken, would life or property be lost?

The second step is to determine if the need for funding is sudden. There would be no build up to a need. In this case, the event could not be planned for nor anticipated. For example, a rusting car occurs over a period of time. One can see it happening and corrective action such as painting the car can be planned for in the routine budget. A sudden event does not allow one to plan or save funds for the colloquial rainy day.

The third step is to determine if the need is urgent. In this case, the funding cannot be delayed once an emergent event has occurred. The task cannot be accomplished without the resources in the immediate future.

Fourth, once the need has been identified and action taken, it should not be a continuous expenditure. It should be temporary in nature.

Finally, the event should be unforeseen or unpredictable. This has some similarities to steps two and four. However, it is possible that a need does develop slowly over time and the need is not recognized. Of course, after an emergent event has occurred, not all possible corrective and preventative actions may be initiated from preventing future events. There may be insufficient resources to adequately respond to all the different contingencies.

C. ANALYSIS OF FISCAL YEAR 1996

1. PL 104-134

There were two supplementals in FY96 and both were good. The first supplemental, PL 104-134, mainly provided funds for NATO operations in Bosnia. There was a sudden step-up jump in activity in NATO operations because the scope of the mission had increased. In December 1995, three months into FY96, President Clinton deployed ground forces to Bosnia and additional support forces to neighboring countries.

PL 104-134 meets the intent of the emergency definition. First, the supplemental was necessary. The military operation encompassing the scope of Bosnia is costly and represents an overall significant portion of the budget. In retrospect, the costs of Bosnia alone represented 1% of the DoD budget. Second, the events leading up to the deployment of ground troops was relatively sudden. While air strikes were on-going, there was no troop build-up. A massive force was sent at one time. Next, the need was urgent. Without the new budget authority, other programs would continue to be depleted by reprogramming their funds to the necessary accounts to support near-future military operations. Without the supplemental funds, the regular appropriated money used for baseline operations would go un-replenished and sacrifice military readiness. Fourth, there was no way to know at the time that NATO operations in Bosnia would become a permanent cost to the DoD. At the time, U.S. Armed Forces thought that the deployment

to Bosnia would be over in June 1998. Finally, there is a mixed sense in determining if this event was unforeseen. Congress did not anticipate the coming ground troop deployment. The funds had not been authorized nor appropriated, which is unlike operations in Southwest Asia, which were authorized and appropriated properly. However, bombing operations had been on-going in Bosnia. It is inconclusive to say for sure that ground troops would have been necessary, but if military history is considered, ground forces are generally always needed to end the conflict with the desires that the U.S. wishes to achieve. The NATO operations portion of the first supplemental represented \$820 million or 85% and it met the intent of the emergency use.

Another program that was designated an emergency was the NATO SIP. It accounted for 4%, \$37.5 million, of the supplemental and was a good use of the supplemental funds. The funds were necessary as part of rebuilding the war devastated areas of Bosnia. The need for funds was necessary now to begin rebuilding the infrastructure and maintain peace in the region. The need was urgent because any delay in funding could risk a schedule delay in the withdrawal of NATO peacekeepers targeted for June 1998. Fourth, this funding would not be permanent. It was meant for immediate repairs to restore infrastructure in Bosnia such as rebuilding bridges and roads. However, this request for funds was not unforeseen. After the bombing was over, it is generally understood that some mechanism must be used to restart economic conditions in a country. Stable economic conditions brought about by sound infrastructure may maintain the peace. Overall, the emergency status of the NATO SIP request for funds was satisfactory even though the costs to rebuild infrastructure should have been established as part of the exiting plan from Bosnia.

There are other characteristics to evaluate of PL 104-134. The funds enacted were completely offset even though they were emergency designated. Not only does this keep spending below the spending caps as required, the new budget authority does not add to public debt. Next, the supplemental passed within two months. For the legislative process, that is relatively fast. In addition, it showed the flexibility of the DoD budget, small missions can be absorbed into the budget without additional funds. There was no request for funds for the deployment of U.S. Armed Forces to support the evacuation of private U.S. citizens or provide extra embassy security in various countries around the

world. Finally, there appears to be no pork barrel spending. Even though the remaining funds were not emergency designated for the other three programs (Sematech, B-52H, Counter-mine warfare) in this supplemental, the new supplemental budget authority went to necessary programs and it was accomplished by using rescissions. A rescission is similar to an earmark to remove funds in the PPBS process. If it was made and no one could justify keeping it, then the mark must be good. With a similar argument, the rescission must be good and the new budget authority is going to a necessary requirement. It should also be noted that the Defense Budget was \$921 million less than the CRB. There was more than adequate space to cover the \$104 million of non-emergency programs. Overall, the first FY96 supplemental was a good supplemental.

2. PL 104-208

The second supplemental in FY96 was equally good as the first. It met the conditions that make it an emergency and the characteristics that make it a good supplemental. This defense supplemental was solely in response to the terrorist attack on the Marine Corps housing facility at Khobar Towers in Saudi Arabia.

This supplemental was an emergency need because it provided funding for a necessary, sudden, urgent, temporary, and unforeseen event. The spending was necessary to pay for immediate response actions following the terrorist attack. In addition, future preventative measures had to be taken to safeguard lives. It had been less than a year, since the terrorist attack on the Saudi National Guard in Riyadh. There was no way to know if another attack was coming after the Khobar Towers event. Second, the event was sudden. There was no immediate warning that an attack would occur. However, force protection measures had already been implemented and improved since the November attacks on the Saudi National Guard, but those measures were still insufficient for the growing weapons capability of terrorists. Also, funding for this event was urgent. Preventing future loss of life and property must be a priority. Furthermore, this funding was not permanent in nature. It was to pay for actions taken in FY96. It is true that some funds would continue to be available for obligation through FY97, but these funds were also part of a larger funding package and they should not be lost because of the end of the FY96. Recall that this supplemental passed on the last day of FY96. Finally, this specific event was unforeseen. No warning was provided. However, on the aggregate

level of terrorist activities, one might argue that it should have been known that something like Khobar Towers would happen eventually. It should be assumed that not all risk can be mitigated and that someone will have an idea not previously conceived to protect against and that is what makes the nature of terrorist activities unforeseen. This supplemental funding was a good use of the emergency designation.

Other characteristics suggest this is a good supplemental. The one purpose for the supplemental was for anti-terrorism, counter-terrorism, and security enhancements. The supplemental was quick to respond by passing within four months. It was completely offset even though it was emergency designated and thus kept spending below spending limits and did not add to public debt. This had not been a prior planned contingency. The force protection program was executing within their budget, but new funds were now needed. The second supplemental of FY96 was a good supplemental and overall, FY96 was a good supplemental year.

D. ANALYSIS OF FISCAL YEAR 1997

There was one supplemental for FY97 to support seven programs. Funds went into the OCOTF for peacekeeping efforts in Bosnia and operations in Southwest Asia, the Reserve Mobilization Income Insurance Fund, OHDACA for Red Cross, Defense Health, P.O.W., Force Protection, and Family Housing. Funds for the OCOTF and the Reserve Mobilization Income Insurance Fund were designated emergency and accounted for 96% of the supplemental.

The use of the emergency designation for the OCOTF was marginal at best. The supplemental was necessary, urgent, and arguably temporary in nature. These three characteristics support the use of the emergency definition. The funds were necessary because once again, the costs of war can be high. In addition, the need for the funds was urgent. Once again, military readiness would be negatively impacted if reprogrammed funds were not restocked for baseline military operations such as training. The U.S. was committed to the peacekeeping effort and the need to fund it would continue until June 1998. By providing a supplemental in the third quarter, there was time to still conduct training and perform depot level maintenance. Furthermore, the sense of this mission being temporary was still plausible, even though we really know that the mission in Bosnia continued past June 1998. At the time, due to the complex nature of world

events, there was no certainty that the commitment of U.S. Forces would go past 1998. However, without a stabilization force in Bosnia, it was likely that civil war would resume. These characteristics support the proper use of the emergency designation.

However, the funding for the OCOTF was not for a sudden or unforeseen event. As operations commenced the year before, there was some time to plan in funds for the regular FY97 budget cycle. With the establishment of the contingency fund for this fiscal year, however, the full range of incremental costs was not fully funded. Later, Table 4.2 shows that only 37% of the incremental costs were covered in the regular appropriation. Of course, there is no way to anticipate contingency costs, but I suggest that 37% was too little based on historical incremental costs. It is possible that the OCOTF was intentionally under-funded with appropriators knowing that funds would be given later. From this aspect, the use of the emergency designation appears to be poor and overall, the use is mixed.

The second and last program to use the emergency designation was the Reserve Mobilization Income Insurance Fund. The use of the emergency designation was proper for the \$72 million supplemental funding. All of the characteristics of an emergency were displayed. The funding was necessary as required by law in the FY96 Defense Authorization Act. The need was sudden and unforeseen because a series of flaws in the implementation of the new fund were just being discovered. The need was urgent because as a pseudo-entitlement under a discretionary program, beneficiaries must be paid and the fund must remain solvent. The need for the funding should be temporary in nature. The solvency of the fund was maintained with supplemental spending. In retrospect, we know that the fund received additional funding in the FY98 supplemental, but the amount was relatively small and the FY98 Defense Appropriation Act was funded solely to cover termination costs to eliminate the program. The use of the emergency designation was proper for this program.

Other programs in this supplemental did not use the emergency designation, but generally were necessary. The OHDACA account was the biggest of the five remaining programs. OHDACA was established this fiscal year and it was authorized \$54.5 million, but appropriated \$49 million. Not only was there space for more of this

appropriation, but the defense budget was \$277 million less than the spending cap making all non-emergency spending supplemental programs possible.

Overall, this was a good supplemental. The programs that used the emergency designation were emergencies. This specific bill passed within one day, but even the original bill that was vetoed by the President went through the process within two months. The supplemental demonstrated fiscal responsibility. Even though most of the supplemental was designated an emergency, the entire amount was offset with rescissions and therefore, it remained below the spending cap and did not add to public debt. Next, small contingent operations were not added to the defense supplemental and there was no evidence of pork. Finally, even though some of the past contingency operations were planned for in the regular appropriation, they were not completely covered and supplemental amounts were necessary. In all, 63% of the incremental costs for FY97 required a supplemental, which demonstrates that some budget planning is going into on-going contingent operations.

E. ANALYSIS OF FISCAL YEAR 1998

All of the funding in the FY98 supplemental, \$2,860 million, was linked to emergency intent (emergency + contingent emergency). Of that amount, \$697 million was designated contingent emergency upon enactment of the bill. Subsequently, all but \$26 million was designated emergency and therefore, 99% of the FY98 supplemental was used by designating it emergency.

All of the OCOTF and half of the natural disaster aid was designated emergency. The remaining six programs and half of the funds for the disaster aid package were designated contingent emergency. The three largest funding packages were OCOTF, F/A-18 procurement, and natural disaster aid accounting for 89% of the total supplemental.

The large value items of this supplemental began to stretch the intent of the emergency safety valve. The OCOTF funding was a mixed choice and procurement for eight F/A-18s was poor choice for the emergency designation. There was some good. The funds for the natural disasters were good uses for emergency intent. However, their total value was low compared to the funding for the OCOTF and procurement accounts

and therefore, overall, the use of the emergency designation was poorly used in this supplemental when using dollar value as the base of reference.

OCOTF received \$1,300 million supplemental funds for operations in Southwest Asia and \$479 million for NATO operations in Bosnia. [Ref. 74:p. 2-129] In Southwest Asia, the cost for Operation Southern Watch was doubling with the build-up of military forces in the first and second fiscal quarters of FY98. The additional funds were necessary and urgent to maintain the U.S. Armed Forces readiness to replenish those accounts that had been reprogrammed to support the military build-up. The need was sudden because there was no slow build-up of forces. The Iraqi defiance started the event and then the Coalition had to respond. This military action would be temporary in that operations would probably last less than a year. However, once again, it is not apparent whether this event was unforeseen. Iraq had a history of non-compliance with U.N. resolutions. However, up until the moment that an Iraqi defector helped U.N. inspectors locate weapons of mass destruction, there was no public concrete evidence that they existed. When Iraq began to defy weapons inspectors, the Coalition had to take action even though it is suspect whether these actions should have been anticipated. This was a good use of emergency designated funds.

On the other hand, funds for NATO peacekeeping was a mixed use of the emergency designation. Again, funds were necessary and urgent to maintain readiness, but paying for these operations in Bosnia were becoming routine. Some critics would argue that this supplement was not unforeseen. This is what complicates this fiscal year's NATO supplement. The regular appropriation was written such that no funds in the entire FY98 DoD Appropriation could be used for operations in Bosnia after June 30, 1998. Furthermore, a supplement would have to be requested by the President in order to continue operations after declaring to Congress that he intended to keep forces in Bosnia and his justification for it. In retrospect, it was skillfully played by President Clinton. Not only did he get legislation written into the appropriation that would essentially allow him to keep forces deployed to Bosnia, it was written such that NATO knew what actions to take if U.S. troops would withdraw. NATO declared it would withdraw all member country troops if U.S. troops departed Bosnia. It was believed that an expanded war would inevitably return to the Balkans in this event and thus, U.S. troops remained in

Bosnia. In this respect, the NATO supplement was not unforeseen. Of course, if a supplement was not provided, the DoD would bear the brunt in reduced funds for readiness in order to pay for the continued contingent operation.

The procurement of eight F/A-18 aircraft for the Marine Corps is difficult to categorize. There were insufficient data found that supports what this funding was for. However, when the bill was introduced, there was no mention of the request for the aircraft and by the conference report, the \$273 million was written into the legislation. The QDR revealed that the new and improved aircraft, which was about to enter full-rate production, was necessary for future Navy operations. Furthermore, of the 20 authorized, all 20 were appropriated in the regular bill. I speculate that there was a potential contract breach or that one of the committee members from one of the contributing aircraft construction states saw it as a chance for pork. However, there is no conclusive evidence of this.

I believe that the following four funding packages were a good use of the emergency designation in this supplemental: O&M natural disaster relief, Reserve Mobilization Income Insurance Fund, OHDACA for the Red Cross disaster relief, and MILCON/Family Housing natural disaster aid. These programs met the true intent of the OMB criteria when funding was either necessary because an existing law requires payments or an unforeseen emergency event occurs such as natural disaster. (Note: The insurance fund was backed by government funding protection.) This is the true intent of the emergency designation, but the use has been clouded by a growing contingency need in the DoD.

Another characteristic of this supplemental made it a bad supplemental. There was not a single rescission. If the emergency designation had not been used, the defense discretionary spending cap of \$290,000 million would have been breeched. [Ref. 62] On the good side, however, there was a quick response to disaster and contingency needs and the supplemental was passed in the mid-third quarter. In summary, this was a mixture of good and bad uses for a supplemental.

F. ANALYSIS OF FISCAL YEAR 1999

1. PL 105-277

Recall that CBO regards this funding as part of the regular appropriation, but for study in this research, I have considered it to be supplemental funding. Part of this confusion may lie in the nature of this funding. There was \$8,321 million in emergency intent spending with about 94% of it eventually being designated emergency. A study of the use of the emergency designation is necessary. This will be accomplished by looking at the top four of eleven programs because they represent 64% of this bill.

The first program reviewed is the OCOTF. \$2,298 million had been appropriated in five days for operations in Southwest Asia and Bosnia. This supplemental funding violated almost every aspect of the definition of emergency. Was the funding necessary? Yes, it was necessary to pay for continued operations in these two theaters. Without it, money would doubtly be transferred from other readiness and infrastructure programs. However, this funding was neither sudden, urgent, temporary, nor unforeseen. President Clinton had made it clear that U.S. Armed Forces would remain to support the NATO SFOR. The Congress knew that it would have to continue funding the incremental costs or readiness would be sacrificed. This funding was not urgent because some funding had been provided in the regularly appropriated OCOTF and another supplemental could be provided later if necessary to offset incremental costs. However, supplementals are normally disruptive to the budget cycle and it was logical to include it in this emergency regular/supplemental spending package for FY99. Just as this event was not sudden, it was not temporary nor unforeseen. U.S. Armed Forces had now been involved with this NATO mission to Bosnia for the previous three years and there was no exit strategy in place. The U.S. would remain attached to the NATO SFOR operation.

The second emergency funding was for a “readiness” package spread throughout 14 MILPERS and O&M accounts and the Defense Health Program. This spending package does not meet the intent of emergency either. There was a definite need for funding. Money would be for recruiting and retention efforts, spare parts, personnel tempo relief, depot maintenance, defense health, and combat equipment. Payments for re-enlistment bonuses must happen. Maintenance of ships, aircraft, and equipment must be done to ensure an adequate level of readiness. As FY00 supplementals will discuss,

the Defense Health Program is required to continue providing benefits regardless of its administrative capabilities. Regardless of these needs, these needs are part of the PPBS system and are part of the routine budgeting request for funds.

The readiness needs were neither sudden, urgent, temporary, nor unforeseen. As in previous years, readiness at the expense of contingency operations was addressed. The deficiency of funding had not developed suddenly and was not unforeseen. While the funding was necessary, it was not urgent nor would it require temporary attention. The Joint Chiefs of Staff (JCS) pointed out on September 29, 1998 that additional funds were necessary or that the military could become ineffective within five years. This suggests that action was not required in this bill. There was time to respond within the regular PPBS process. The JCS had made this request less than one month before this funding was enacted suggesting that they had waited long enough and now it was time to speak out to fix the readiness problems that the Armed Services Committee had tried to address in earlier years. [Ref. 74:p. 28]

The third emergency spending package was for the Year 2000 (Y2K) information technology issue. \$1,100 million was designated contingent emergency. This was a mixed good and bad use of the emergency category. The funding was necessary to fix the computer coding problems in all defense activities. Without these fixes, it was believed that all technology operations could be disrupted. This event was also urgent and temporary. In just over one year, all computer chip applications would be affected by this event. Furthermore, this was only a one-time event. After Y2K, these coding issues would not need to be addressed again. The ability to determine if this was sudden and unforeseen is subjective however. Some would argue that it was well known that this event was approaching and computer programmers had warned users. There had been time previously to prepare for this event. There was no evidence of appropriation for this in the 1998 Defense Appropriation Act.

Finally, Anti-Missile Defense was the fourth major spending package. This also seemed to be in mixed alignment with the definition of emergency. The Quadrennial Defense Review (QDR) had established that the program had been under-funded and was in need of immediate funding. However, the need did not arise suddenly, nor was it

unforeseen. The FY99 authorization and appropriation were very much aligned which indicates the congressional process was well aligned in this matter. However, in the previous years, there had been a continuous battle between the President and Congress on how much funding was enough for missile defense. The QDR re-enforced that the program had been under-funded and now suffered from schedule and technical risks. This was a matter for the defense PPBS and not the supplemental process. Future increased funding for this program would be necessary. The question became would it be budgeted for in the PPBS or would it be placed in a supplemental. A look into FY00 indicates that the Anti-Missile Defense Program did get another \$125 million for the Patriot missile system. From a historical perspective, it would seem that this type of funding would not be temporary. Finally, this funding might be urgent. There is a large variance of subjectivity in determining if the threat required an urgent response that could not wait for future planning in the PPBS. However, the general nature of schedule and technical risks to the program and the overall good it provides to the U.S. and its allies seem to suggest that continuing to acquire the capability should not be lost.

The four uses of the emergency category seem to be poorly used in PL 105-277. Furthermore, this seems to be a poor supplemental overall. There were zero rescissions provided. The emergency designation would be necessary to prevent the spending cap from being violated. Next, this became a supplemental not so much responding to a past event, but amounts that were anticipated for future use. The incremental costs for missions in Bosnia and Southwest Asia had not yet been incurred. The funding for readiness was in anticipation of future shortfalls. The Y2K problem was a future event. Anti-missile defense continued to be future looking program to protect against future threats.

It should be noted that there was \$429 million in emergency intent funding in this supplemental. It was for responding and repairing storm damages due to hurricanes on the U.S. Eastern Coast and monsoon damages in the Pacific. There should be no doubt that this is the true intent of the use of emergency funds. Natural disasters of this type are sudden, temporary, and unforeseen because they cannot be predicted as to when or where they may strike.

Perhaps most of the spending in PL 105-277 seemed bad because of the timing. It could be that CBO was accurate in that it placed all this spending in the regular appropriation category. The use of the emergency definition in this funding remains poor. The use of the emergency bypasses the good intent of proper fiscal planning in the PPBS. The second supplemental would be more characteristic of its timing in the fiscal year.

2. PL 106-31

\$10,887 million of this supplemental had emergency intent. When it was first enacted, 63% or \$6,822 was designated contingent emergency. Subsequently, \$9,049 million was designated emergency and therefore utilizing 83% of the supplemental.

This supplemental used the emergency designation well in some parts of this supplemental and poorly in other parts. Over half of the funds were designed to go to contingency operations. The remaining amount was dispersed in readiness, MILCON, and disaster relief projects.

Over half of this supplemental was intended for contingency operations. OCOTF received most of its funds to pay for Kosovo, which had become a new mission for the U.S. Armed Forces in recent months. Some of the funds went to pay for additional incremental costs in Southwest Asia. The two will be discussed separately.

Nearly \$5 billion of the supplemental was intended for Kosovo. This was a good use of the emergency designation. The need for funds was necessary. Without them, the incremental costs would severely detract from routine missions of the military. The need was sudden. There was no build up of military activity before commencing air strikes. There had been ethnic fighting in the region for several years, but the U.S. had never become involved in Kosovo. The ethnic Albanians had asked for assistance before and were rejected. Now, NATO found its mission in the Balkans expanded and suddenly taking on another peacekeeping mission. This may support that the peacekeeping mission was not completely unforeseen, but still sudden. Next, the need for the funding was urgent. Costs of the air war were accumulating quickly. The need was so urgent that Congress ensured the incremental costs of Kosovo would be compensated for by providing more than what the President had requested by providing funds for the follow-

on ground forces. Finally, the funding was intended to be temporary. After the NATO mission was complete, it was anticipated that a U.N. task force would enter the region to oversee stability. This was a good use of the emergency designation.

The supplemental funding for Southwest Asia was not a good use of the emergency designation. Of the \$739 million authorized for Southwest Asia, only \$439 million was appropriated in the regular appropriation. No additional funding was provided in the first emergency supplemental in October 1998. Now, PL 106-31 provided another \$453 million. This should not be surprising since the average incremental costs for the previous three years had been \$1,032 million. However, operations Desert Thunder and Desert Fox in late 1998 may have not been anticipated, their combined incremental costs were \$136 million. [Ref. 23:p. 15] While the funding was necessary, it was not sudden, temporary, nor unforeseen. Operations in Southwest Asia had been established and they would continue. The unpredictability is only in the scope of operations.

The second funding package was for “readiness.” Once again, this would not be a good use of the emergency escape clause. This was the second time readiness would be getting emergency funding for the year and it was valued at \$4,188 million. While the need exists for the funds, these supplemental amounts are attempting to defeat the regular PPBS approach to budgeting. For example, some of this funding would depend on future authorization such as in the MILPERS accounts for military pay and retirement costs. That alone was valued at \$1,838 million. Other amounts were necessary to support unfunded depot maintenance. Once again, the choice was made in the PPBS approach that the risk was acceptable not to fund those activities. This is part of the conundrum of public, federal budgeting. The previously budgeted amounts were being discarded by providing the supplemental amounts. This violates the intent of making sound fiscal decisions in an environment of limited resources. This need is neither temporary, sudden, nor unforeseen and is a bad use of the emergency safety valve.

Finally, additional funding was intended for the Balkan region by providing funds to support MILCON and re-enforce military infrastructure. This is definitely not a good use of the emergency designation. The Pentagon identified a need. However,

construction projects take time. With operations on-going in the Balkans over the last three years, there was no surprise that the U.S. would be remaining in the region. This is funding that could have been planned for in the PPBS and it was a bad use of the emergency category. More importantly, some would argue that this item was full of pork. Of the original \$1.1 billion, only \$475 million would remain for the Pentagon priority projects. As noted by Wisconsin Democrat David R. Obey, “more than half the construction projects were slated for funding after fiscal 2000 or were not even in the Pentagon’s long-range plans.” [Ref. 75:p. 2-155] While this may be pork, I also suggest that this is a form of forward-funding strategy taking place in the supplemental. It is becoming a way to make space in future budgets so they will not take up budget authority later and therefore, making space for other items when the regular appropriation comes along. [Ref. 75:p. 2-154]

The disaster relief projects provided \$247 million in aid. The Central American Disaster Assistance was a good example of the emergency definition. This is actually a win/win project. The military provides the relief by rebuilding in other countries and providing humanitarian support after a natural disaster while giving our military the experience it needs to maintain their skills. \$31 million was for disaster relief of U.S. bases. All of the funding was offset with savings on paper and ironically, the funding was designated non-emergency when this would be a good use of the emergency designation.

The supplemental funding for Kosovo, about half of this supplemental, was an excellent example in the use of the emergency designation. However, the remainder of this bill was not congruent with the intent of the emergency designation.

3. Conclusion for FY99

The emergency category for funding was poorly used in FY99. Most of the funding packages would not meet the intent of the emergency definition. However, as explained below, without the emergency safety valve, none of the funding would have been possible unless rescissions had been expertly used.

G. ANALYSIS OF FISCAL YEAR 2000

FY00 had two supplementals totaling \$9,135 million. Of the two bills, \$8,762 million were initially designated contingent emergency. Of that amount, almost all of it

would become designated emergency. Therefore, 97% of the funds utilized were designated emergency and 3% were non-emergency.

The four largest of the 20 categories of programs in this fiscal year will be analyzed. Combined, they represent a good and bad mix for these two supplementals. The first package is for contingency funding. Both supplementals provided funds to the OCOTF. PL 106-246 was dedicated solely for funding of NATO operations in Kosovo. This was a mixed bad use of the emergency designation for one major point. The operations were specifically not provided for in the regular defense appropriation. President Clinton stated that he would request a supplemental to cover the costs in Kosovo. [Ref. 75:p. 2-29] Furthermore, the Defense Authorization Act of 2000 made it clear that the President should request funds for Kosovo in a supplemental. Therefore, both the President and Congress did not intend to budget for operations in Kosovo in the regular appropriation process even though it was recognized that the costs to the U.S. would range from \$2 billion to \$5 billion. Then, it was not until the fourth fiscal quarter that funds were provided which is damaging to defense baseline operations. What makes this so bad is that it is apparent that the funding would have been needed to support the NATO KFOR. Essentially, this need was necessary and urgent, but it was not sudden, temporary, nor unforeseen. In early 1999, when the U.S. committed forces for the NATO mission, it was stated that Forces would be present until the U.N. peacekeeping mission was established. That peacekeeping force turned out to be the NATO KFOR. The funds for these incremental costs were necessary to prevent damage to readiness. While that is a good use of the emergency safety valve to cover the costs of a peacekeeping mission, the process of getting to the funding demonstrated poor fiscal responsibility to the public in respect to planning.

Next, funding for the second supplemental, PL 106-259 may have been to cover additional defense incremental costs for the fiscal year and/or as a ploy to move funds forward from fiscal year 2001. Regardless, funds in the OCOTF are usually available until expended. Furthermore, if they are not utilized in the account they are transferred to, and then they may be transferred back to the OCOTF account. This is a good ploy for making budget authority available in future years and thus leaving space in future appropriations for other programs and subsequently not using the emergency designation

then. If this tactic is utilized, it appears to be an unsound strategy to get funding into the budget while circumventing fiscal planning and responsibility to manage public debt. In a manner of speaking, it is making a loan on future spending without having a defined use. Another way to look would be to call it a blank check. This is counter-intuitive to the budgeting processes and forcing the organization to plan efficiently and effectively for the use of constrained resources. Ultimately, the additional funding was necessary to cover the full range of incremental costs for FY00. Without the second supplemental, only 84% of the incremental costs were have been covered for the fiscal year and the DoD would have been required to absorb the remainder. From that aspect, it makes this a good supplemental amount. However, the concept of forward funding makes this a poor use of the emergency designation

The second major funding package was for the defense Working Capital Funds. The funding was to cover the cost of increased fuel prices and this was a good use of the emergency designation. Without the funding, operational tempo is forced to be reduced whether it is for steaming hours, flying hours, or tank miles. These funds were necessary and urgent. The fluctuation of oil prices is difficult to anticipate and may be unforeseen. The PPBS plans for a certain amount two years in advance. The global price of oil can change is less time based on domestic and international events. This type of additional funding should be temporary in nature because future planning will include those costs. As a matter of fact, when there is a savings for a drop in fuel prices, those funds can be reprogrammed or rescinded to cover other budget authority.

The third major supplemental spending package was for the Defense Health Program. The funding may have been necessary to support the health program, but nothing about this funding indicates it was a surprise. It was not unforeseen, sudden, nor would it be temporary in nature to fix. As stated above, there was a hint that the program was beginning to have problems. In FY99, \$200 million was necessary for funding shortfalls based on new mission requirements, management programs, and backlogs in property maintenance. [Ref. 44:p. 1520] Now in FY00, Congress was questioning problems with claims and the administration of the program. Claims adjustments went back to 1998 and a GAO investigation would investigate the program deficiencies.

Clearly, this program required attention, but it was not a good use of the emergency designation to bypass spending caps.

The fourth major spending package was for “readiness” representing \$529 million from the second supplemental. Again, readiness is disrupted from contingency operations. On the manpower aspect, “service members return home . . . less ready to fight and win the nation’s wars than before they left.” [Ref. 71:p. 2289] Furthermore, insufficient funding for contingency operations will damage readiness. The funds for operations in Kosovo demonstrate that. Funding for that operation came very late in the year. Once again, “military leaders have said they need to know they will be getting supplemental funds soon, or they will have to start canceling training exercises scheduled for later this summer.” [Ref. 69:p. 1382] Furthermore, depot maintenance would be delayed and spare parts would not be provided in this kind of budget crunch. However, once again, the fundamental basic of funding for readiness is present. There is a choice to be made to in planning for the shortfalls in readiness. This need had not been unforeseen nor had it been a sudden event. As the Air Force Chief of Staff stated, “We have mortgaged long-term readiness to shore up near-term readiness.” [Ref. 71:p. 2289] From this aspect, it would appear that the use of the emergency designation was a poor choice. Funding was being provided on an emergency basis based on previous budgeting choices made some years before.

\$219 million was dedicated to six non-emergency programs. There was \$322 million in rescissions, which satisfies the legal requirement for offsets in non-emergency supplemental funding. This was a good aspect to the supplemental.

There was an offset for one designated contingent emergency account. It was for \$90 million in procurement for the F-15 in the U.S. Air Force. There were no other offsets for emergency funding and that supports a poor use of the supplemental.

The small operation in East Timor was funded in PL 106-246. \$62 million was provided in the supplemental to cover the \$57 million in incremental costs. This was a good use of the emergency designation. It paid for a necessary incurred cost that was sudden, temporary, and unforeseen during the PPBS. However, it was not offset with rescissions.

Overall, this was a bad year for the supplemental. The supplemental appeared to be used as a “fix it” tool. Many of the needs of the DoD had developed because of unfunded requirements, increased contingency missions, or the budgeting choices made in the past. Furthermore, there was almost no attempt to offset new budget authority. In the time of budget surplus, there must have been a feeling of no need to find rescissions. Finally, if there had been rescissions, it most likely would have been cutting into needs in other areas of the DoD, but this was not evaluated. Suffice it to say, CBO determined in FY00 that the budget was short nearly \$51 million of the requirements. [Ref. 16:p. xii] CBO calculated that the sustaining-budget estimate was \$340 billion. However, the regular appropriation for FY00 had been \$289 million.

H. NATURE OF THE SUPPLEMENTAL

1. Spending Caps

	Fiscal Year (Budget Authority in millions of dollars)				
	96	97	98	99	00
CRB Defense Function 050 ^a	264,700	265,583	268,200	None	288,812
House Version ^g				270,500	
Senate Version ^h				270,500	
Discretionary Defense Limit ⁱ				271,500	
Defense Regular Appropriation, Net ^b	264,423	264,662	267,989	270,390	286,540
Defense Supplemental Appropriation, Net ^c	-1,033	-1	2,830	9,050	8,822
Defense Supplemental Appropriation, adj ⁱ	na	na	na	8,323	na
Total Defense Appropriations	263,390	264,661	270,819	287,763	295,362
Difference, Appropriations less CRB	-1,310	-922	2,619	16,263	6,550
Defense Emergency Designation ^e	982	2,077	2,834	16,845	8,834 ^f
Net difference, includes Emergency Funds	-2,292	-2,999	-215	-582	-2,284

Notes

a Source: [Ref. 58-61]

b Source: [Ref. 9:pp. 25-26]

c Source: [Ref. 4:pp. 16, 26]

d Negative value indicates less new budget authority than proposed in CRB.

e Source: [Ref. 6:p. 4] Note: Includes regular and supplemental amounts unless indicated.

f Source: [Ref. 4:p. 26] Note: Amount includes supplemental emergencies only.

g Source: [Ref. 26]

h Source: [Ref. 27]

i Source: [Ref. 37] Note: Calculated from total defense amount in emergency section.

j Source: [Ref. 62] Note: This value is used as it is the statutory limit.

Table 4.1. Spending Limit Analysis.

The Federal Budget must remain under its spending caps and the Department of Defense is no different. The defense budget function must remain below its prescribed discretionary spending cap. In the BEA of 1997 for instance, there may be one discretionary spending cap combining defense and non-defense activities or discretionary spending may be broken into two separate caps and described as defense and non-defense. Regardless of how the BEA of 1990 and 1997 defined the caps, the CRB is required to remain within the confines of the legal spending caps. For instance, the BEA of 1997 states that the discretionary limit for defense is \$271,500 million for FY99. However, in FY00, the statutory limit on discretionary spending was \$532,693 million net. This allows Congress to apportion discretionary spending differently as needs change in future years. Throughout the 1990s, more discretionary spending was shifting toward non-defense accounts. DoD must remain under the Defense function spending caps imposed in the CRB because the CRB limits must remain under the discretionary spending caps as imposed by the DCA of 1985 and the BEA of 1990 as revised in 1997.

The emergency designation is necessary to keep net annual appropriations below the spending limits. Table 4.1 is an analysis of how supplementals and the emergency designation affect the defense discretionary spending limits for fiscal years 1996 through 2000. The CRB indicates the budget limit. There was no CRB for 1999 and both the House and Senate versions of their CRB will infer the limit. Both versions placed the defense limit at \$270,500 million and it will be used as it is below the statute limit of \$271,500 million. Next, the net Defense regular appropriation and net Defense supplemental appropriations for each fiscal year were added together for the total amount of defense appropriations. The total appropriations amount was subtracted from the CRB and the difference is tabulated. A negative value means that the total appropriation is less than the spending limit. FY98, FY99, and FY00 were all above their limits if they are not adjusted using the emergency designation. Next, the amount of the emergency designated funds for the year are tabulated and used to adjust the budget limit up as is allowed in the DCA of 1985. The emergency designated funds were based on regular and supplemental appropriations except for FY00. No data for FY00 was available for the regular appropriation. Finally, the net difference, which incorporates the new spending limit, is tabulated. Again, negative values indicate how much the

appropriations were below the spending limits. As required, each fiscal years net budget was below the spending limits. The emergency designation was instrumental in achieving this.

2. Planning For Contingencies

	FY96	FY97	FY98	FY99	FY00
Total Incremental Costs ^a	3,272	3,076	3,602	5,982	4,482
OCOTF (regular appropriation only) ^b	NA	1,140	1,884	439	1,723
OCOTF (supplemental only) ^b	NA	1,430	1,814	6,866	3,150
OCOTF (regular & supplemental) ^b	NA	2,570	3,698	7,305	4,873
% of regular OCOTF covers incremental costs	NA	37%	52%	7%	38%
% of all OCOTF covers incremental costs	NA	84%	103%	122%	109%

Note: (Budget authority in millions of current year dollars)

a Source: [Ref. 23:pp. 15-16]

b Source: [Ref. 28-38]

Table 4.2. Incremental Costs and Contingency Fund Analysis.

OCOTF is a contingency account. It is used to pay for incremental costs incurred due to military operations for either war or other-than-war operations that are above baseline routine operations in the DoD. To anticipate the future costs is difficult, but estimates are made and money is appropriated and programmed in the routine budget cycle.

While it is possible to plan for some contingency operations, it is never enough. After 1995, DERF was not used again until 2001. Instead, in FY97 contingency operations were budgeted for. Recall from Table 3.4 that the OCOTF was funded in each regular appropriation. In each case, the funds were not designated an emergency. This suggests that missions in Southwest Asia, Bosnia, and Kosovo were planned. However, as Table 4.2 shows, the OCOTF in the regular appropriation was never enough to pay for the incremental costs. On average, it only paid for about 30% of the incremental costs. Each year members of the DoD would go to Congress and testify that more funds were needed; otherwise, readiness and future infrastructure would be negatively affected. Subsequently, each supplemental included funds for the OCOTF. In FY97, the supplemental OCOTF amount was not enough to pay for the incremental costs.

However, FY98, FY99, and FY00 incremental costs were completely paid for. It should be noted that the second OCOTF supplemental in FY00 was designated contingent. If none of those funds were designated emergency, then the OCOTF fund for FY00 would only pay for 84% of the incremental costs. Without actual historical data for FY00, the pay off for FY00 falls between 84% and 109%. Contingency operations can be planned for, but they are not always completely paid for.

3. Intent of the Supplemental

The supplemental could be used for one of two reasons. Each reason is predicated by the fact that the budget was under-funded in the regular appropriation process. First, a routine need has developed. That routine need requires a supplemental in an emergency capacity because the contingent events were not planned for in the planning phase of federal budgeting. Second, the legislative or executive branch of government uses the strategic under-funding concept. In the regular appropriation process, the appropriators give less, knowing that later the needs will have to be funded. This assumes that the appropriators really know that the need is more than what they are actually giving and it is strategically planned.

FY96 was an overall good year for supplemental spending. The first supplemental was a good use of the emergency designation. Its main goal was to cover incremental costs for peacekeeping and it did it promptly during the third fiscal quarter. The second supplemental was also a good use of the emergency designation. It responded quickly to changing world event. Also, not all of the funding for anti-terrorist activities was bunched in the supplemental. Some funding went into the regular appropriation. This indicates that the regular appropriation was under-funded, knowing that the additional funds would be made up in the supplemental. Otherwise, a bulk of the funds that were requested would fall into the Wlezien “onset of war” model. [Ref. 20:p. 58] In other words, they were based on new contingent events.

FY97 was another good year for supplemental spending. Most of the funding was to pay for contingent events. The emergency designation was used properly most of the time and funding was provided in a timely manner in the third fiscal quarter. Most of this funding may fall into the strategically under-funded category. The total incremental costs

for military operations were not budgeted. Some, but not all incremental costs were subsequently offset with a supplemental.

FY 98 was a bad year for supplemental spending. Again most of the funding was to pay for contingent events. However, the use of the emergency designation was poorly chosen. The funding was to pay for events that were becoming routine. This type of strategy may fall into the strategically under-funded category. Less is provided in the regular budget, knowing that more will have to be provided later in the supplemental to cover the incremental costs.

FY99 was bad year for supplemental spending also. Many of the programs that used the emergency designation were done so in violation of the intent of the designation. Much of this funding was necessary due to under-funding of other programs. Much of what the CBO would call regular appropriation with emergency designation was poorly used. Much of this funding would fall into the category of insufficient or under-funded regular appropriation. This is complicated by the fact that some would call the first supplemental spending part of the regular appropriation. However, there was a genuine need for half of the funding in the second supplemental because there was for a new mission in Kosovo. The other half, mostly readiness money, was necessary for what were under-funded programs. At this point, it is unclear if strategic under-funding was really the mechanism being pursued by government.

FY00 was a bad year for supplemental spending also. The emergency designation was used poorly in most cases based on what it is intended for. FY00 seemed to be a “fix the DoD” year for funding. The under-funding of the past was catching up with the DoD. Requesting additional funds was becoming routine.

I. SUMMARY

During the FY96 through FY00 period, the purpose of the defense supplemental changed. Initially, it was a useful tool to pay for disasters, mandatory requirements, and the costs of adding new missions. Some say that during these years, the DoD was significantly under-funded. The real value of defense budget was shrinking while the requirements and missions increased. This may have caused this evolution in the purpose of the defense supplemental. By FY00, the defense supplemental appeared to be

necessary to pay for requirements that should have been funded in the regular appropriation. Furthermore, the use of the emergency designation was poorly used. The emergency designation became a tool to push the defense discretionary spending limits up on a routine basis.

While some contingency planning was possible, it was never enough in the regular appropriation. A supplemental was requested to offset the incremental costs associated with peacekeeping. The regular funding for contingency accounts did not use the emergency designation. There was an attempt to control spending by budgeting for those costs. However, there is always a supplemental to cover more of the contingency costs and they use the emergency safety valve to shift the spending limit upward.

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V. CONCLUSION

A. RESULTS

The defense supplemental appropriation can be used for various purposes. As Wlezien's model indicates, supplemental appropriations can be used for the following factors: budgetary growth, the onset of war, economic conditions, strategic under-appropriation, transition in administrations, shifts in the composition of Congress, and Election. The narrow time span of this study eliminates the "transition in administrations" variable. Furthermore, the Congress remained mostly the same throughout the period. That eliminated the "shifts in the composition of Congress" category. However, budgetary growth, the onset of war, economic conditions, strategic under-appropriation, and elections cannot be eliminated as factors on the supplemental. This study was to focus on any pattern that may exist in relation to strategic under-appropriation to help answer the primary question. The primary question was to determine if the appropriation process is a one-step or two-step process.

First, neither the President nor the Congress seems to budget for supplementals. When a supplemental is used, either the emergency clause must be used to set a new discretionary spending limit or a rescission must be provided. This is necessary because the budget is programmed almost entirely up to the spending cap.

Second, it may be difficult to determine who initiates a supplemental. The President can ask for it or the Congress can. If the Congress asks for it, it might be seen as a Contingent Emergency. If the President originates it and the Congress accepts it, it is seen in the legislation as designated emergency. As the supplementals progressed, a greater percentage of the supplemental funding was enacted as contingent emergency. However, at some point, the President made a request for the funding and most of the supplemental would become designated emergency.

Third, as the supplementals progressed, more emergency funding was placed into the supplemental. This spending was usually congruent with the DoD mission and there was little evidence of pork barrel spending in the supplemental.

Fourth, as the level of incremental costs increased, there was more supplemental funding. The defense budget went from absorbing some of the costs to completely offsetting incremental costs.

Finally, as the supplementals progressed, it became apparent that supplemental funding might be more than a one-time expenditure. It becomes routine to ask for additional funding in the supplemental.

B. CONCLUSIONS

There was little evidence that strategic under-appropriation is what drove supplemental requests during the FY96 through FY00 period. More importantly, a new factor may have been identified. As budgetary under-funding continues, the stress on the organization begins to tear away at its normal capabilities. Essentially, supplementals must be requested to make up for deficiencies in the organization.

Finally, in this period when a federal budget surplus developed, there was less and less use of rescissions to offset additional spending. With the emergency designation, it is possible to get around the spending caps. However, the additional spending would add to national debt. In a period of surplus, it is possible to add supplemental spending without adding to public debt.

The goal must be to remain on the path to responsible budgeting. By preventing or minimizing the budget gap, there may be a lower chance of the emergency designation being used on a routine basis. As the CBO recommends, either lower the requirements, increase the funding, or do a mixture of both to lower the gap. [Ref. 16:pp. 25-30]

CBO also recommended options to better enforce spending limits. Those recommendations were the following: Eliminate the emergency exemption; Require a supermajority vote for emergencies; Establish criteria for emergency spending; Establish a reserve fund for emergencies. [Ref. 5:pp. 14-20] These requirements may force a return to a more responsible way to budgeting in defense.

C. AREAS FOR FURTHER RESEARCH

There is some ambiguity of when emergency funding is categorized as regular or supplemental. Such an example is found in PL 105-277. More of the total emergency funding was designated emergency in the first supplemental. While the amount of

contingent emergency was higher than in PL 106-31, more of the funds were eventually designated emergency. The first supplemental was enacted with 25% of it designated emergency. Eventually, 94% of it would be designated emergency. Next, the second supplemental was enacted as 37% designated emergency. Eventually, 83% was designated emergency, which is less than the first supplemental. Perhaps the first funding was seen more important as it was enacted with more symbolic attachment to the regular appropriation. Not only did this legislation pass five days after the DoD appropriation, it also contained funds for programs that had been under-funded in the past. Furthermore, more of the funding was forward-looking. It was to pay for events that had yet to occur. Part of the need of a supplemental is to respond to an emergent need that has already arisen. The cost has been incurred and without additional funds, other programs will suffer. PL 105-277 was different in that it would pay for future programs. Funds had yet to be obligated or expended. The events can be controlled and planned. This is a problem that may deserve further study. The question would be, “is an emergency need defined by its timing in relation to when the funding occurs?”

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APPENDIX. SENSE OF CONGRESS CONCERNING THE USE OF THE EMERGENCY DESIGNATION BY FISCAL YEAR.

A. FISCAL YEAR 1996 CONCURRENT RESOLUTION ON THE BUDGET

SEC. 314. SENSE OF THE HOUSE ON EMERGENCIES.

(a) FINDINGS.—The House of Representative finds that—

(1) The Budget Enforcement Act of 1990 exempted from the discretionary spending limits and the Pay-As-You-Go requirements for entitlement and tax legislation funding requirements that are designated by Congress and the President as an emergency.

(2) Congress and the President have increasingly misused the emergency designation by—

(A) designating funding as an emergency that is neither unforeseen nor a genuine emergency; and

(B) circumventing spending limits or passing controversial items that would not pass scrutiny in a freestanding bill.

(b) **SENSE OF THE HOUSE.**—It is the sense of the House that Congress should study alternative approaches to budgeting for emergencies, including codifying the definition of an emergency and establishing contingency funds to pay for emergencies. And the Senate agree to the same.

B. FISCAL YEAR 1997 CONCURRENT RESOLUTION ON THE BUDGET

SEC. 422. SENSE OF THE HOUSE ON EMERGENCIES.

(a) FINDINGS.—The House of Representatives finds that:

(1) The Budget Enforcement Act of 1990 exempted from the discretionary spending limits and the Pay-As-You-Go requirements for entitlement and tax legislation funding requirements that are designated by Congress and the President as an emergency.

(2) Congress and the President have increasingly misused the emergency designation by—

(A) designating as emergencies funding requirements that are predictable and do not pose a threat to life, property, or national security,

(B) designating emergencies with the sole purpose of circumventing statutory and congressional spending limitations, and

(C) adding to emergency legislation controversial items that would not otherwise withstand public scrutiny.

(b) **SENSE OF THE HOUSE.**—It is the sense of the House of Representatives that in order to balance the Federal budget Congress should consider alternative approaches to budgeting for emergencies, including codifying the definition of an emergency, establishing contingency funds to pay for emergencies, and fully offsetting the costs of emergencies with rescissions of spending authority that would have been obligated but for the rescission.

C. FISCAL YEAR 1998 CONCURRENT RESOLUTION ON THE BUDGET

SEC. 322. SENSE OF THE SENATE ON DISASTER ASSISTANCE FUNDING.

(a) FINDINGS.—The Senate finds that—

- (1) emergency spending adds to the deficit and total spending;
- (2) the Budget Enforcement Act of 1990 exempts emergency spending from the discretionary spending caps and pay-go requirements;
- (3) the Budget Enforcement Act of 1990 expires in 1998 and needs to be extended;
- (4) since the enactment of the Budget Enforcement Act, Congress and the President have approved an average of \$5,800,000,000 per year in emergency spending; and
- (5) a natural disaster in any particular State is unpredictable, by the United States is likely to experience a natural disaster almost every year.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the functional totals underlying this concurrent resolution on the budget assume that the Congress should consider in the extension of the Budget Enforcement Act and in appropriations Acts—

- (1) provisions that budget for emergencies or that require emergency spending to be offset;
- (2) provisions that provide flexibility to meet emergency funding requirements associated with natural disasters;
- (3) Congress and the President should consider appropriating at least \$5,000,000,000 every year to provide for natural disaster relief; and
- (4) Congress and the President should not designate any emergency spending for natural disaster relief until such amounts provided in regular appropriations are exhausted.

D. FISCAL YEAR 1999 CONCURRENT RESOLUTION ON THE BUDGET

None

E. FISCAL YEAR 2000 CONCURRENT RESOLUTION ON THE BUDGET

SEC. 206. EMERGENCY DESIGNATION POINT OF ORDER IN THE SENATE.

(a) DESIGNATIONS.—

(1) GUIDANCE.—In making a designation of a provision of legislation as an emergency requirement under section 251(b)(2)(A) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985, the committee report and any statement of managers accompanying that legislation shall analyze whether a proposed emergency requirement meets all the criteria in paragraph (2).

(2) CRITERIA.—

(A) IN GENERAL.—The criteria to be considered in determining whether a proposed expenditure or tax change is an emergency requirement are whether it is—

- (i) necessary, essential, or vital (not merely useful or beneficial);
- (ii) sudden, quickly coming into being, and not building up over time;
- (iii) an urgent, pressing, and compelling need requiring immediate action;
- (iv) subject to subparagraph (B), unforeseen, unpredictable, and unanticipated; and
- (v) not permanent, temporary in nature.

(B) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

(3) JUSTIFICATION FOR FAILURE TO MEET CRITERIA.—If the proposed emergency requirement does not meet all the criteria set forth in paragraph (2), the committee report or the statement of managers, as the case may be, shall provide a written justification of why the requirement should be accorded emergency status.

(b) POINT OF ORDER.—When the Senate is considering a bill, resolution, amendment, motion, or conference report, a point of order may be made by a Senator against an emergency designation in that measure and if the Presiding Officer sustains that point of order, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

(c) WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the members, duly chosen and sworn. An affirmative vote of three fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) DEFINITION OF AN EMERGENCY REQUIREMENT.—A provision shall be considered an emergency designation if it designates any item an emergency requirement pursuant to section 251(b)(2)(A) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(e) FORM OF THE POINT OF ORDER.—A point of order under this subsection may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(f) CONFERENCE REPORTS.—If a point of order is sustained under this section against a conference report the report shall be disposed of as provided in section 313(d) of the Congressional Budget Act of 1974.

(g) EXCEPTION FOR DEFENSE SPENDING.—Subsection (b) shall not apply against an emergency designation for a provision making discretionary appropriations in the defense category.

(h) SUNSET.—This section shall expire on the adoption of the concurrent resolution on the budget for fiscal year 2001.

Source: [Ref. 58-61]

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